Public Utilities

FORTNIGHTLY

August 14, 1947

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PUBLISHERS

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Public Utilities Fortnightly

VOLUME XL *August 14, 1947* NUMBER 4

Contents of previous issues of PUBLIC UTILITIES FORTNIGHTLY *can be found by consulting the "Industrial Arts Index" in your library.*

Advertising Section

¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

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Pages with the Editors

As we witness from time to time the revelations of Communist activities in the United States, as unrolled before the House Committee on Un-American Activities, it causes advocates of our American system of free private enterprise to ask themselves some serious questions. Communism, either as proposed in the United States or as practiced in Russia, does not shake the faith of our great American majority in the system of government they now enjoy. But what does disturb a great many thinking Americans, including businessmen, is the fact that these foreign ideologies would even have the slightest appeal for any substantial segment of our American population.

HON. ARTHUR W. COOLIDGE

"WHAT are you afraid of," sneers the Communist who wants to get on with his plotting, "if your American system is so superior to Marxism?"

THIS question implies that as long as the American system of free enterprise demonstrates its superiority in terms of a better living standard for the greatest number, it need fear no adverse verdict at the polls and will remain protected by its own democratic guaranties.

UNFORTUNATELY, people can be hypnotized to act against their better interests even while exercising democratic privileges. This was the fate of the German people who voted Hitler's government into office. Once in power, the Nazis made short work of democratic processes by following the same pattern of suppression already established in the totalitarian countries of Soviet Russia and fascist Italy. In other words, it didn't make much difference whether the people voted for it, or were caught napping by a revolutionary force. In the end they were stuck with it, and stuck irrevocably.

THE record of Communism does not have much appeal for the average American. But that does not prevent the Communist agitator from promising benefits for the masses too fantastic for even our own system of free private enterprise to match with actual performance. Any contest between promises and performance will always go that way.

COMMUNIST progress in America has made hardly a dent by bold frontal attack, preaching a revolution by force, to overthrow the government. But it has gone far, indeed, by indirection, by association with other milder groups, by using the protective coloration of soft-headed liberalism and by other gradual processes. Since World War I the average citizen has had to pay a steadily increasing portion of his income to government.

THE challenge of this trend is to increase our production through free private enterprise. Nowhere could a better start be made than through the expanded operations of American public utility industries. The leading article in this issue is a stirring affirmation of this challenge from the Lieutenant Governor of the great commonwealth of Massachusetts, ARTHUR W. COOLIDGE. This article, entitled "Free Enterprise and the Clenched Fist," is, in substance, the same as an address by the same name presented at the recent fifty-ninth annual convention of the National Association of Railroad and Utilities Commissioners at Boston.

LIEUTENANT GOVERNOR COOLIDGE, a fourth cousin of the late former President Coolidge, was formerly the president of the Massachusetts Senate, serving in the house from 1936 to 1939, and in the senate from 1940 through 1946. He has been running for office since 1928 and has never been defeated. COOLIDGE was graduated from Tufts College and Harvard Law School and is a director of the Reading Coöperative Bank and the Boston Penny Savings Bank.

* * * *

ALSO in this issue is an article on "Utility Employee Training" (beginning page 205) by GUY E. TRULOCK, a native Missourian. He was educated at Park College in that state and at Northwestern University. He began his business career in the educational bureau of Commonwealth Edison Company, Chicago, in 1928, and continued with tours of duty through training and public relations activities until after Pearl Harbor when he took time out for World War II, first in connection with the Office of Civilian Defense and later as a Lieutenant in the Navy.

WILLIAM S. LEFFLER

* * * *

FERGUS J. MCDIARMID, whose article on the financing problem for independent telephone companies begins on page 211, is an insurance company executive whose ability as a writer has brought forth considerable acclamation not only from the readers of this publication, but other business and professional journals as well. MR. MCDIARMID joined the Lincoln National Life Insurance Company of Fort Wayne, Indiana, three days after graduating from the University of Toronto in 1928. He has specialized in life insurance actuarial work, as well as in public utility investment problems. His present post is that of second vice president with the Lincoln National Life Insurance Company.

* * * *

WILLIAM S. LEFFLER, whose article entitled "Cost *versus* Price: A Management Problem" begins on page 217, is a construction engineer now practicing in Darien, Connecticut. Born in Stockton, California, and educated at the University of California (BS, ME, EE, '14), MR. LEFFLER began his professional work in California, interrupted by service with the air forces in World War I. He directed the bureau of rate research of the Brooklyn Edison Company from 1922 to 1926, and was a member of the engineering firm of Lacombe and Leffler until 1932 when he organized his own firm. He is the author of numerous articles on public utility rate work and economic research.

THE next number of this magazine will be out August 28th.

The Editors

In This Issue

In Feature Articles

In Washington and the Utilities

In Financial News

In What the State Commissioners Are Thinking About

In The March of Events

In The Latest Utility Rulings

PREPRINTS FROM PUBLIC UTILITIES REPORTS

Various regulatory rulings by courts and commissions reported in full text, pages 33–64, from 69 PUR(NS)

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

CHARLES G. MORTIMER, JR.
Vice president, General Foods Corporation.

"The best public relations is public service."

W. L. MCGRATH
President, The Williamson Heater Company.

"Management is the art of raising the standard of living."

JOHN M. LOVEJOY
President, Seaboard Oil Company of Delaware.

"Technology is the great multiplier of our natural resources."

KATHARINE ST. GEORGE
U. S. Representative from New York.

"The big question is how to bring this government down to what one of my southern colleagues calls 'frying size.'"

ANTHONY EDEN
Former British Secretary of State for Foreign Affairs.

". . . to impose a network of rigid restrictions and exercise centralized control over the day-to-day working of British industry is not a proper activity of government."

R. R. WASON
President, Manning, Maxwell & Moore, Inc.

"The taxes people pay are in the prices of the goods that they buy. Prices can come down when taxes come down."

C. ARTHUR BRUCE
President, National Lumber Manufacturers Association.

"The time has come to remove government as a participating partner in every detail of our affairs. We know what our problems are and we propose to solve them ourselves."

EDWARD T. LEECH
Editor, The Pittsburgh Press.

"The security we have today—and Americans have more than any other people—comes from jobs with firms that are profitable—and from government efforts financed by the taxes of firms and individuals who have profited. There is no security in working for a losing business."

EDITORIAL STATEMENT
The (New York) Sun.

"It is a moral and a legal obligation of the responsible heads of Federal agencies to make the funds appropriated for a fiscal year last throughout the year. But all too often in recent years deficiency appropriations have been required because the heads of agencies refuse to carry out their moral and legal obligation."

WALTER LIPPMANN
Columnist.

"Free enterprise is a system which works only when there is security and plenty."

E. WIGHT BAKKE
Director, Labor and Management Center, Yale University.

"Free unions, free management, and free enterprise will survive or go down together."

S. SLOAN COLT
President, Bankers Trust Company.

"It is time that the rôle of profits be discussed in a realistic fashion and in some detail."

EUGENE G. GRACE
Chairman, Bethlehem Steel Corporation.

"More production per man is the solution for improved national income and a higher standard of living."

EDITORIAL STATEMENT
The Wall Street Journal.

"If one will disassemble some of the economic problems about which there is endless discussion, he is very likely to find that they really rest on high taxes."

H. K. McCANN
President, McCann-Erickson, Incorporated.

"Remember that *public opinion* is the final judge of any *private enterprise*—that the good will of the public is an essential business asset."

WILLIAM J. KELLY
President, Machinery and Allied Products Institute.

"We need a Federal tax policy substantially the reverse of our prewar policy that was devastating to private enterprise. We want a policy for a dynamic economy, not for a liquidating one."

HARRY B. MUNSELL
President, Kansas City Power & Light Company.

"If we do not constantly keep up our standards, it is a reflection upon our citizenship, for inadequate or expensive electric service causes hardships not alone upon us but upon the whole community."

CHARLES E. WILSON
President, General Electric Company.

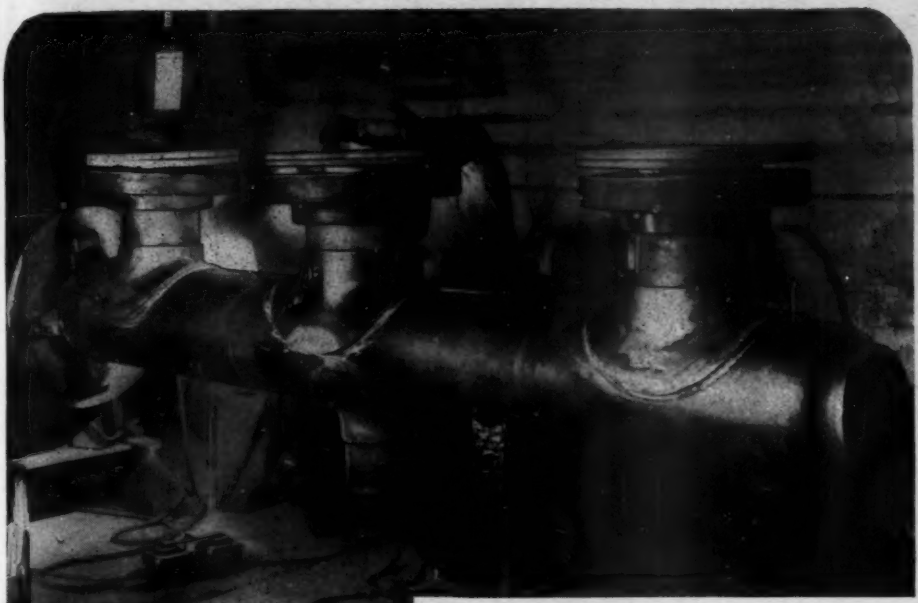
"While we need government in the modern economic picture, its participation must be by law, not by executive whim. Government must participate as an enforcer, as a regulator, and not as a petty tyrant."

JOSEPH W. MARTIN, JR.
Speaker, United States House of Representatives.

"So long as the people maintain their faith in their Congress and send men of high character to it, just so long will the Congress maintain its power and authority to legislate the people's will into law and action."

EDITORIAL STATEMENT
Labor.

"If 'free enterprise' fails in the United States and Canada, it's 'gone with the wind.' This newspaper would not like to see that. *Labor* believes in the American system. 'Free enterprise' has been guilty of many crimes and *Labor* hasn't hesitated to say so, but, after all, it's better than any form of totalitarianism."



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Grinnell shops are equipped with hundreds of such aids to better welding — jigs, turntables, adjustable fixtures and positioners . . . all manned by qualified welders, each a *specialist* in his type of work.

Correct welding is but one of many reasons why engineers everywhere rely on Grinnell for prefabricated piping. They know they can be sure of expert interpretive engineering and laboratory research, modern fabricating facilities and rigid inspection.

Summed up, Grinnell Prefabricated Piping assures *quality* and *economy* because of one source for design and fabrication; pretesting and approval before shipment; only completed assemblies are billed and at predetermined prices; delivery schedule can be predetermined but kept flexible; field assembly time is materially reduced. Write for booklet, "Prefabricated Piping by Grinnell".

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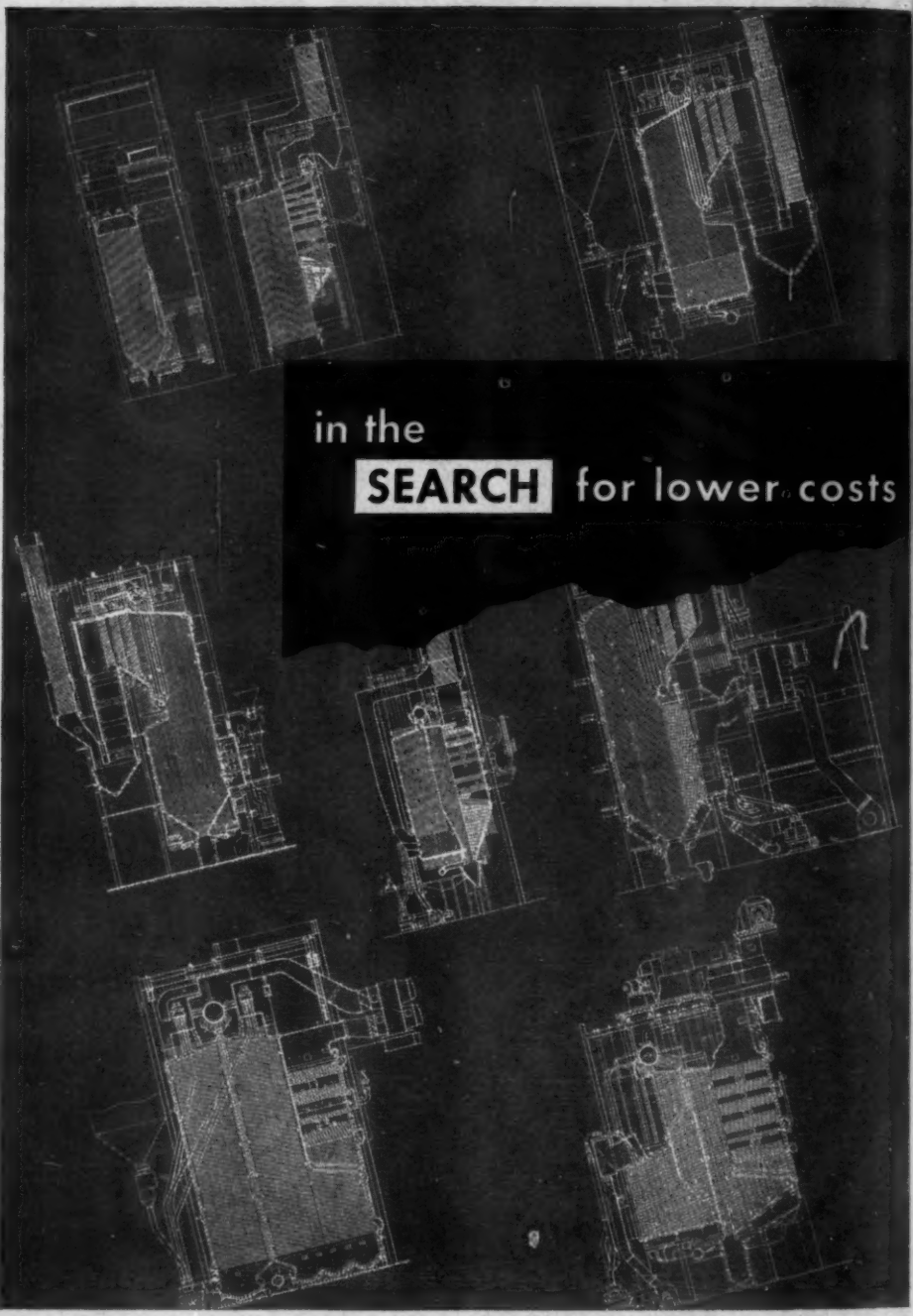

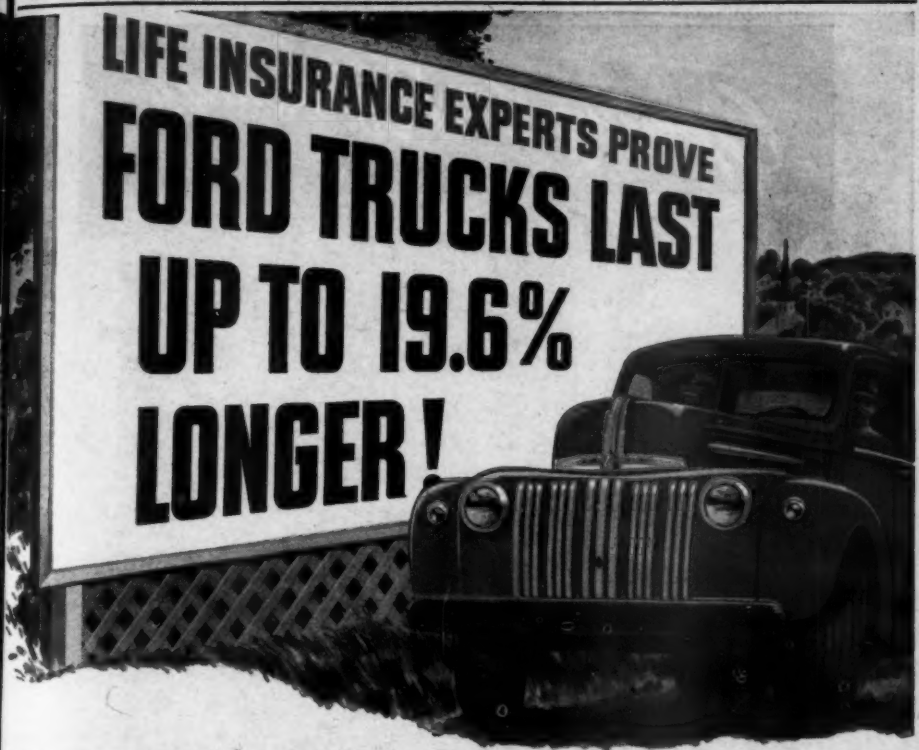

NO LONGER need you guess about which make of truck to buy! Now you can know, beforehand, *which* one of all five sales leaders has delivered the longest service, which has the longest life-expectancy! Ford!

And the proof is *certified* proof! Certified by the same scientific methods used by life insurance companies in computing their rates!

4,967,000 Trucks Studied. Wolfe, Corcoran and Linder, noted New York Life Insurance Actuaries, assembled the records of all trucks of the five sales leaders registered from 1933 through 1941—a total of *4,967,000* trucks! Then they prepared *truck* life-expectancy tables in the same identical manner in which they prepare *human* life-expectancy tables for life insurance companies.

Ford Wins! Up to 19.6% longer life for Ford Trucks! Up to 19.6% longer life than the four other sales leaders! That's what the certified truck life-expectancy tables prove! The reason? Ford knows how to build trucks to last longer. Ford Trucks are built stronger! See your Ford Dealer today. He'll show you why it's good business to wait for the truck with the longest life-expectancy—Ford!

Certified proof

FORD TRUCKS LAST LONGER

The life-expectancy of a Ford Truck is

13.1% longer than that of Truck "B"
3.2% longer than that of Truck "C"
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OFFICIAL ACTUARIAL CERTIFICATE

Based on the application of sound and accepted actuarial methods to the actual experience as measured by truck registrations, we hereby certify that, in our opinion, the accompanying table fairly presents the relative life-expectancy of the trucks involved.

WOLFE, CORCORAN AND LINDER
Life Insurance Actuaries, New York, N. Y.

Utilities Almanack

August

14	Th	¶ *American Society of Mechanical Engineers will hold meeting, Salt Lake City, Utah, Sept. 1–4, 1947.*
15	F	¶ *American Water Works Association, New York Section, will hold meeting, Plattsburg, N. Y., Sept. 4, 5, 1947.*
16	Sa	¶ *Mid-West Gas Association annual gas school and conference will be held, Ames, Iowa, Sept. 8–10, 1947.*
17	S	¶ *Michigan Independent Telephone Association will hold meeting, Lansing, Mich., Sept. 17, 18, 1947.*
18	M	¶ *Indiana Electric Association will hold meeting, French Lick, Ind., Sept. 17–19, 1947.*
19	Tu	¶ *American Water Works Association, Michigan Section, will hold meeting, Bay City, Mich., Sept. 18–20, 1947.*
20	W	¶ *Oklahoma Utilities Association, Gas Division, will hold annual conference, Oklahoma City, Okla., Sept. 19, 1947.*
21	Th	¶ *Rocky Mountain Independent Telephone Association will hold meeting, Salt Lake City, Utah, Sept. 22, 23, 1947.*
22	F	¶ *American Water Works Association, Kentucky-Tennessee Section, will hold meeting, Louisville, Ky., Sept. 22–24, 1947.*
23	Sa	¶ *American Bar Association will hold annual meeting, Cleveland, Ohio, Sept. 22–26, 1947.*
24	S	¶ *New Jersey Gas Association will hold meeting, Trenton, N. J., Sept. 23, 1947.*
25	M	¶ *Appalachian Gas Measurement Short Course begins, West Virginia University, Morgantown, W. Va., 1947.*
26	Tu	¶ *American Institute of Electrical Engineers, Pacific general meeting, begins, San Diego, Cal., 1947.*
27	W	¶ *Pacific Coast Gas Association will hold annual meeting, San Diego, Cal., Sept. 23–25, 1947.*

Courtesy, Georgia Power Company

Man-made Lakes Plus Hydro Power

This is the scene of the Yonah plant on the Tugalo river in mountainous northeast Georgia—one of six hydroelectric developments of Georgia Power Company. The lakes created by these dams have enhanced the natural beauty of this section.

Public Utilities

FORTNIGHTLY

VOL. XL, No. 4 AUGUST 14, 1947

Free Enterprise and the Clenched Fist

Some thoughts on the power of American enterprise to meet the competition of Russia's clenched fist with superior industrial power, but pointing out dangers of handicapping American industry with excessive costs and back-seat driving bureaucracy.

BY THE HONORABLE ARTHUR W. COOLIDGE*

LIEUTENANT GOVERNOR OF MASSACHUSETTS

PUBLIC utilities are the oldest business on earth. The opening verses of Genesis report that "darkness was upon the face of the deep" and that the first public service in history was furnishing light. Back in the days of Noah's flood there was the problem of water power which might have been better regulated had there been public service commissioners on the job instead of the Ark's animal keepers.

My own office happens to be located on the exact site of the first railroad in the United States. It was a short inclined track built in 1795 on Beacon Hill, Boston, where the present statehouse stands. It was used to convey brick from kilns on Beacon Hill to the valley.

Sometimes I think the road must still be in operation because of the brickbats that fly in our direction.

Actually the first railroad company in America was incorporated by the Massachusetts legislature in 1826 to move granite from Quincy, a Boston suburb, for the construction of the

*For personal note, see "Pages with the Editors."

Bunker Hill monument. It is still in operation. That stone shaft, therefore, is not only a memorial to the famous Revolutionary War battle but also a monument to America's first railroad. We have also in Massachusetts the Hoosac tunnel, the oldest railroad tunnel in the country. The first railway express company was inaugurated in this state. In Boston one may ride on America's first subway.

Only recently the commonwealth set up a public authority to acquire this Boston Elevated Railway. Under the able leadership of Carroll Meins, the new chairman of the board of trustees and well known in utility regulatory circles for his distinguished service on the Massachusetts Department of Public Utilities, we of Boston, Massachusetts, are determined to make this one of the most modern, self-supporting rapid transit systems in America.

BUT in dealing with utility regulation and operation, generally, I must not concentrate on railroads, although the temptation is tantalizing in a state which produced another native son Massachusetts is also proud of, the late Joe Eastman, who died a martyr to hard work in supervising so well the running of the railroads of this country during the war. Her other sons since the days of Alexander Graham Bell, who have distinguished themselves in the field of utility regulation and operation, with respect to power, communications, and other utility services, are legion.

All the natural resources of America were present when the Pilgrims found the Indians roaming the forests and the plains. But they were untapped and uncontrolled. The vast physical powers have transformed natural resources into energy and thereby have given Americans the highest standard of living in the world.

In order to appreciate the advantages of properly supervised utilities in our country it may be helpful to examine conditions in other lands.

China has a population of 500,000,000 but only one thirty-sixth of our railroad mileage. Not long ago the United States trained and equipped a group of crack Chinese soldiers for Chiang Kai-shek. With the knowledge of American military science and with modern American arms they were rated as the best troops in the Orient.

But this outfit recently was wrecked while struggling across storm-swept mountain trails. This tragedy — and many of the tragedies of Asia — is the result of inadequate transportation, inadequate communications, inadequate industrial power, and inadequate supervision.

GREAT BRITAIN today is fighting a grim battle to save her industrial life. Her statesmen warn that she must "export or die." But her production is held back by lack of coal and electric power. So far as electricity is concerned she is somewhat in the same position as the United States was in relation to transportation at the period of the Civil War.

The Mississippi river could not carry the freight. The movement of goods across the country was delayed because each railway had a different gauge. Freight had to be unloaded and reloaded constantly as it slowly moved back and forth. In the years between the 60's and the 70's the standard gauge of 4 feet 8 inches was adopted

Transforming Natural Resources into Energy

"ALL the natural resources of America were present when the Pilgrims found the Indians roaming the forests and the plains. But they were untapped and uncontrolled. The vast physical powers have transformed natural resources into energy and thereby have given Americans the highest standard of living in the world."

and commerce flowed in an unbroken stream.

British recovery is retarded because her electric power system has not adopted "the standard gauge." The use by uncorrelated systems of different cycles, different voltage, and different frequency prevents the interchange of power.

Recovery in Europe in no small measure is checked by the ruination of the German electric system which before the war exported current to the factories of her neighbors. Russian weakness is traced to the destruction of her great power dams and the loss of her transportation facilities.

The absence or the failure of utilities all over the globe—except in the United States—is prolonging the depression and the misery and the chaos. *We are strong because our natural or manufactured gas flows, our generators hum, and our rolling stock moves.*

It is a sobering responsibility. We must not lose this advantage or we shall fail in our assistance in world recovery and in national security.

WE should make sure that our utilities are functioning without the handicaps of ruinous costs, hamstringing rates, and too much back-seat driving by meddlesome-mattie bureaucrats.

Those of us who are state officials view with some apprehension the encroachments of the Federal government on the preserves of private enterprise and state commissions.

In fairness we should appraise both the benefits and the disadvantages of TVA programs. Gigantic Federal power projects often require the withdrawal of land from taxation. Federal flood-control programs often imply permanent flooding of areas which must therefore be permanently withdrawn from agriculture and other

products. Are we sure that the consumer does not pay in extra taxes for these costs and expenditures as much as he saves on his light bill?

A power project remote from raw materials, markets, labor supply, and available capital offers so little except cheap power that many of us feel that the chances of industrial development of the district may be slim. We must act wisely lest we weaken the system from which we draw our economic strength.

It is obvious from today's news from Europe that the Soviet Union and its browbeaten, galley-slave governments have slammed the door on the Marshall plan of international coöperation. Behind the iron curtain they plot to rear an economic empire in competition with our own free enterprise system.

They are drooling in their beards in anticipation of another American depression which will prove that our free enterprise system is a flop. For so long as our standard of living is unmatched elsewhere, the Kremlin realizes that Communism will never be accepted by the world outside the range of Russian execution squads.

SINCE we now are playing international marbles for keeps, it is our solemn duty to make Uncle Sam a giant—to meet with superior industrial power the competition of the clenched fist.

It is in our blood, as Americans always, to accept a challenge in the field of economics. A nation that produced Benjamin Franklin, Thomas Edison, Henry Ford, and Orville Wright isn't to be outdistanced by a country that has devised scarcely anything beyond the hammer and sickle.

In the race for industrial supremacy, it is our history and our destiny always to win.

"THE *case against Socialism is not as obvious as Totalitarianism but it is just as strong. It is not so obvious because many states which fly the Socialistic banner have not carried out the Socialist doctrine which, among other things, calls for ownership by the state of all means of production, including industries engaged in manufacturing, transportation, and communications as well as financial institutions. A state is not necessarily Socialistic because it engages in some public enterprise. As a matter of fact all states, including ours, engage in some public enterprise and should in those exceptional circumstances where it can best serve the public interest.*

"But we must differentiate sharply between the state which is carrying on some public enterprise and the state which has undertaken seriously attainment of the Socialistic objective of complete governmental ownership. Whenever that happens, long before the final goal is reached, civil liberties are either impaired or obliterated and religious freedoms are curtailed. That's what happened in Italy and Germany. That's what may happen in England if that country carries out a full program of nationalization."

—PAUL G. HOFFMAN,
Chairman, Committee on Economic Development.

Utility Employee Training

How a program of educational courses of the Commonwealth Edison Company serves its employees and the public by helping the day-to-day operation of the business to move with increasing efficiency and harmony.

By GUY E. TRULOCK*

A PROGRAM of educational courses has been in operation in the Commonwealth Edison Company for upwards of thirty years, a program beneficial both to the company and the public. Some thirty-five subjects relating to the business and not readily available elsewhere are listed in the company's current catalogue. They are offered to employees on a tuition-free, voluntary-attendance basis.

The program is divided into three parts, each operating concurrently, but in different cycles.

One part, characterized by class-room procedures, is subdivided into two major divisions, consisting of a curricula of employee courses and a college graduate orientation plan. Another part features educational counseling and a tuition refund system, while a third might be described as a refresher program in the theory and practice of management.

The class-room courses are utilized largely by nonmanagement personnel. The "college graduate orientation plan" involves selected college graduates, mostly technical, who are circulated through the company on a part-class-room, part-on-the-job arrangement preliminary to regular assignment. This orientation plan, begun in 1912, was discontinued at the beginning of World War II. Consideration is being given to its reëstablishment with such changes as may be necessary to meet changing conditions.

Employees have available a counseling and refund system in which 65 per cent of the tuition of approved courses is refunded on evidence of successfully completing prescribed work. All high school subjects are on the approved list as are two terms each of beginning college courses in accounting, business law, English, economics, psychology, and public speaking. In addition, other courses pertinent to an employee's work may be approved for refund by

*For personal note, see "Pages with the Editors."

joint concurrence of the training and safety division, industrial relations department, and the department concerned.

A THIRD part of the company's educational activity is a program the primary purpose of which may be said to be a review of the concepts and procedures of management, especially in their relations to the human element. The program embraces management people at all levels. This phase of the educational picture was authorized by the company's top operating committee in the appointment of a committee on supervisory training, headed by the vice president in charge of industrial relations, and composed of one representative (upper management level) for each of the seven executive areas. After a period of investigation this committee made a number of recommendations relative to a review of management functions, with particular reference to the communication of management information and the supervision of personnel. From this grew an initial project, known as the Forum on Supervision, where management personnel from first-line foremen and supervisors to vice presidents sit down at luncheon conferences to participate in fact-finding discussions.

To enlarge on the foregoing summary of component parts in the program, a catalogue, listing courses, instructors, and all information pertinent to enrollment, is mailed each fall to employees at their home addresses. Courses listed run for twelve to fifteen meetings of one and a half hours each, are held after 5:15 PM, are tuition free, include tests and examinations, and, when successfully completed, are recorded on the individual's permanent employment record. The courses range from simple descriptive subjects, such as elementary electricity, to those of college level, such as the theory and application of electronics. Although the majority of courses are of a technical nature, an attempt to diversify the appeal is indicated by the following list from the current catalogue: Circuits and Equipment; Electrical Power Systems; Boilers, Turbines, and Auxiliaries; Atomic Energy; Company Organization; Public Utility Accounting; Air Conditioning; Protective Relays; Business English; Business Law; and Electricity Rates. Two courses, one in Power Transmission and the other in Symmetrical Components, receive credit toward a degree at the Illinois Institute of Technology. Other courses receive no credit at outside schools.

SINCE the courses are voluntary and are held after hours, it follows that in order to compete with the five o'clock pull toward home and fireside, particularly during the dark winter months, effort is constantly being made to make class-room work attractive. A corps of instructors, recruited from the management personnel of the various departments, has been instructed in teaching methods with particular emphasis being placed on the use of visual aids. Instructors are asked to develop a maximum of participation on the part of the people in their classes on the theory that if an employee is encouraged to express himself before a group he will have a deeper interest in the subject under discussion.

The curriculum is developed by the staff of the training and safety divi-

sion, industrial relations department. Constant endeavor is made to keep in touch with educational needs of employees by maintaining contact with the line organization. For instance, a number of engineers were found to be interested in the possible application of atomic energy to the utility field. A class was formed for the purpose of collecting and discussing available information. Although no one in the company was qualified to conduct such a course on the basis of past experience, an engineer who, during his term in the Navy, had acquired considerable teaching experience instructing at the Massachusetts Institute of Technology, was found to conduct the course. While this subject has a limited appeal, it is felt that an opportunity is being given for alert engineering minds to keep abreast of developments in the application of atomic energy to power plants.

THE after-hour classes also provide an opportunity for heads of departments and their assistants to conduct classes, and thus provide exercise for their teaching ability. Wherever possible, departmental executives are encouraged to take the lead in presenting information from the field in which they are best qualified. The course in company organization describes the functions and procedures of the various units in the organization. It is presented largely by means of kodachrome slides and motion pictures, supplemented by discussion from the head people of the department. This practice has not only developed some first-rate lecturers and discussion leaders among the executive personnel, but has also stimulated good-natured competition as to which group can make the best showing. It has also given employees an opportunity to see more of the "brass," and to talk with them, a situation not ordinarily possible in the day-to-day operations of a large concern. During the question periods when the visiting "lecturers" take seats on the platform in front of the class (attendance at this class averages around eighty per meeting), employees have found the "bosses" to be quite human and personable. At the same time, department heads have acquired added appreciation for the interest of the employees in the details of company operation.

WHILE the curriculum has been laid out to appeal mainly to non-management people, it is now felt that the management group has been neglected to some extent, and steps are being taken to broaden the program. A course in conference methods and techniques for management people features a dinner meeting in which the din-

¶ "A PROGRAM *of educational courses has been in operation in the Commonwealth Edison Company for upwards of thirty years, a program beneficial both to the company and the public. Some thirty-five subjects relating to the business and not readily available elsewhere are listed in the company's current catalogue. They are offered to employees on a tuition-free, voluntary-attendance basis.*"

ner is a part of the discussion procedure. Coincidentally, the "graduates" of this class have found abundant opportunity to exercise their discussion technique in the meetings of the Forum on Supervision, described below.

Conscious effort is made to get away from the traditional feeling of a "classroom atmosphere." Since all of the instructors are management people, it is felt that they should take the lead in encouraging freedom of expression and in promoting a friendly approach to common objectives. The classes attract approximately a thousand enrollments annually, about 15 per cent of which are repeaters who take two or more courses. Facilities are located in the company's downtown offices and consist of four permanent classrooms amply equipped with demonstration and laboratory gadgets, and the usual visual aids such as motion pictures and slides. In addition there are other meeting rooms available for classes as the occasion demands.

THE projects described as falling within the third part of the company's educational program, such as the Forum on Supervision, are partly on company time and partly on the employee's, in so far as utilization of the lunch hour for meetings is concerned. The Forum will be described on the basis that it is an example of the plan to use maximum participation on the part of supervisors wherever possible. The Forum is divided into four subsections of fifty men each. Each section meets at luncheon in a company dining room once a month on successive Tuesdays. A section is seated among eight round tables, at each of which sits a discussion leader who is representative of the middle management levels. This individual is a member of a committee of sixteen, known as the Forum Committee, which has the responsibility of not only selecting topics for discussion, but of sitting in to see how these topics work out in practice.

At each meeting eight members of the committee, to accommodate the eight tables which are used in seating each section, act as discussion leaders with the primary responsibility of seeing that the discussion is free and uninhibited, and that each person has an opportunity to express himself.

ONE of the seven vice presidents of the company serves as chairman of these meetings for four consecutive sections—the length of time necessary to cover a given topic. The chairman thus brings to the meeting evidence of the support given by top management to the program. Luncheons are held in what is known as the Advisory Committee Room, a well-appointed dining room which has been the traditional meeting place for one of the upper management committees for many years. There is thus some prestige connected with this feature, including the fact that the appointments and service are the same as those given to the upper management committee.

At each meeting the chairman, in addition to announcing the topic, adds whatever explanation he thinks is necessary to clarify the issues and to set the stage for the ensuing discussion. At the conclusion of his remarks, the tables break out in simultaneous group discussion for forty-five minutes. A stranger, coming into the room at the

College Graduate Orientation Plan

"THE 'college graduate orientation plan' involves selected college graduates, mostly technical, who are circulated through the company [Commonwealth Edison] on a part-class-room, part-on-the-job arrangement preliminary to regular assignment. This orientation plan, begun in 1912, was discontinued at the beginning of World War II. Consideration is being given to its reëstablishment with such changes as may be necessary to meet changing conditions."

precise moment when the starting signal is given, would no doubt be startled at this innovation to the conventional "meeting." During this discussion period the chairman moves from table to table for the purpose of asking questions or just listening in order to catch the trend of thought. When time is up, he calls on each discussion leader for a report, emphasizing that minority as well as majority opinion is desired.

AT the conclusion of each meeting the written reports are turned over to the supervisor of education and training for summary preparatory to forwarding a report on each topic to the sponsoring committee on supervisory training. Here the report is discussed and further analyzed, and recommendations prepared for submission to the top operating committee, where further approval can transmit recommendations into company policy.

Of the seven topics for completion by July 1, 1947, the following six have been explored in the twenty-four meetings of the various sections which have been held since last November:

What personal leadership traits are necessary to supervise people effectively?

In your opinion, what are the responsibilities of supervision?

In your opinion, what authority should a first-line supervisor have in order to do his job well?

What are some of the things that superiors do which tend to create a "to-hell-with-it" attitude on the part of subordinates?

What are some of the things that subordinates do that tend to irritate superiors and interfere with the effective discharge of management responsibilities? What can be done to correct these situations?

What do you think should be done to strengthen supervisory positions as parts of the management structure?

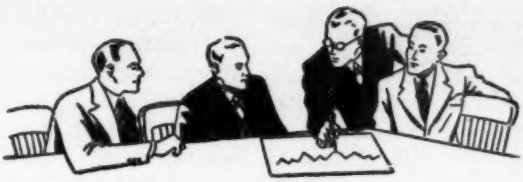
FROM the very considerable amount of data developed in these meetings there is to be evolved a code on supervision, which, when written and approved by the top management committee, will become a guide to the supervision of personnel at all levels. Inasmuch as it will be based upon the considered judgment of more than two hundred supervisors whose average service with the company is upward of twenty-five years, it is believed that the code will be a sort of local product, which the people who have to administer it can say that they had a hand in developing from scratch.

A number of by-products have been noticeable as coming from these meetings. Men who have known each other only by a voice over the telephone or by a signature have been brought together, some for the first time. The entire group has the opportunity of knowing each of the vice presidents and the members of the committee on supervisory training, who visit one of the sections of the Forum each month. It is thought that this more intimate acquaintance among the various levels of management is conducive to a sense of "belonging" in the company rather than to a feeling of detachment, particularly if the individual is located at some outlying property.

THE main conclusion to date is that the entire Forum procedure has resulted more in a "vindication of the obvious" rather than a "clarification of the obscure" process. Some spots are appearing, such as a need for more specific instruction in presupervisory duties. For instance, when such a need is uncovered the training and safety division attempts to meet it either by developing a course for the after-hours classes; by a series of conferences presided over by company people and supplemented by an expert from some one of the local universities; through inclusion in some established training course; and also by liberalizing the courses in the tuition refund system which may be taken without being pertinent to the employee's work.

In this case there have recently been added to the approved courses two terms of first-year college level public speaking, psychology, and economics.

AS an educational activity the plan above described features learning by doing. Little has been brought out that could be classified as something which has not been known at some time or other. But to have a large group of key people develop principles of supervision which they, from experience, believe to be a part of their code of operation, lends a sort of local proprietary air to the principles brought out. It is as though each person responsible for supervising the activities of employees has had a hand in stating what he thinks is the most effective means for carrying out the responsibilities of his job. These operations have been entered into in the spirit of exploration, to the end that the educational needs of both superiors and subordinates in the company organization can be brought out on the basis of helping the day-to-day operations of the business move along with increasing efficiency and harmony.



Financing Problems for The Independents

Bearing of present price levels and cost of automatic central office telephone equipment. Basic information required before lending institutions can express even a tentative interest in the matter.

By FERGUS J. McDIARMID*

THE American Telephone and Telegraph Company and its subsidiaries are now engaged in a construction program expected to cost about four billion dollars over the next four or five years. It has been estimated that this will involve outside financing through the sale of bonds and stocks to the public totaling as much as two and one-half billion dollars and representing about a 40 per cent increase in the outstanding capital of the system. The purposes of this program are twofold. First, it will enable the system to meet the large unfilled demand for telephone service. Second, by making use of technical developments it will enable the company to better cope with the labor situation. Payrolls of the Bell system now amount to in excess of 50 per cent of operating revenue, a proportion comparing with that of the railroads and comparing very unfavorably with payrolls of only about 20 per cent of revenue in the case of the electric utilities. Furthermore, there is no guaranty that telephone wage levels will not go higher, and they possess a real threat to the earning power of the industry, already reflected in dividend cuts of some Bell subsidiaries. There is no doubt that the main hope of successfully coping with this problem is in the conversion of the system to automatic operation to the maximum extent possible. This is going to cost a lot of money.

The pattern of financing for the Bell system is well established. Its operating subsidiaries can sell long-term bonds on a very favorable basis, and some are engaged in doing so. The parent itself can market its debentures at a comparatively low interest cost; and while offerings of these no longer meet with an enthusiastic scramble on the part of investors—since many potential buyers are beginning to feel loaded up with them—there is no doubt that they can still be marketed in large

*For personal note, see "Pages with the Editors."

quantity at a price, mainly to financial institutions. American Telephone and Telegraph might sell debentures convertible into common stock, as it has done before, or it can sell more stock directly. What effect this process of capital dilution will have on the $9 dividend is problematical, but the required funds can no doubt be raised.

Problem of the Independents

THE problem facing many independent telephone companies differs from that of the Bell system in scale but not in degree. Indeed, in the case of some independents this problem may be still more critical. I refer to companies whose property now consists largely of small manually operated exchanges. The current wage situation has made the conversion of such exchanges to automatic operation the price of economic survival. It means the difference between an operating profit and an operating loss, aside altogether from the little matter of return on invested capital. The wage situation, therefore, has companies operating such exchanges over a barrel.

At present price levels the cost of automatic central office equipment is no small matter, amounting to about $100 per line. In addition, a company is likely to find itself with a number of subsidiary expenses, including, for example, the cost of new buildings to house the new equipment, new telephones, dials for existing telephones, additional cable, etc. It is quite possible for the over-all cost of conversion of a manual system to dial to approach $100 per telephone, a figure at which some good quality manual systems used to sell not so long ago.

How is a relatively small telephone company to raise this money? Even if the management were willing to dilute the present common stock ownership, the task of selling common stock in the face of the present rather jittery stock market would be a difficult one and would involve doing so on a basis which would promise purchasers a very high rate of return. The common stocks of a goodly number of large and well-known utilities are currently selling at less than ten times present earnings. As a practical matter this method may be ruled out for most small independent telephone companies, whose record of recent earnings in the face of mounting costs may not be impressive. Even the sale of preferred stock by such companies under present conditions would be a very difficult and costly matter. The sale of a public bond issue would probably involve rather high overhead expenses.

The easiest and most economical way for such a telephone company to raise the required capital is through a private term loan from a financial institution, life insurance companies being the most important in this field. Based on experience derived in working out a number of such loans for telephone companies in recent months, ranging in size from $50,000 to nearly $1,000,000, the writer can assure potential borrowers that this process need be neither complicated nor fraught with high overhead to the borrowing companies. This is in spite of the fact that such loans must be tailor-made to suit individual situations. A rather standardized procedure can be used.

Getting the Ball Rolling

USUALLY, before placing orders for new equipment, the telephone

management will want to know where the money to pay for it is coming from. It can do this by approaching a financial institution directly for a loan commitment. With the standing in line for telephone equipment which is now going on, the borrower may wish the loan to be paid out over a period of time as equipment is delivered or payments upon it are required. Sometimes this period will cover as long as three years. The borrower wishes to pay interest on the loan only while he has the proceeds in hand. However, institutions, in making commitments to advance funds in the future, are advancing something of value. They are taking the risk of money rates tightening in the interim or the credit of the company deteriorating. Usually therefore it is customary to charge a commitment fee on the unadvanced part of the loan, one-half per cent per annum, on a pro rata basis, being a reasonable rate.

BEFORE the lending institution can express even a tentative interest in the matter, certain basic information will be required. It should be possible for such an institution to make up its mind as to its probable interest on receipt of the following information:

1. A 10-year record of the income account showing revenue, operating expense, maintenance expense, depreciation allowed, taxes (with Federal income and excess profits taxes separate), net income, fixed charges, earnings available for dividends, and dividends actually paid. A breakdown of revenue among local exchange revenue, toll revenue, and other revenue will also be useful.

2. The latest balance sheet of the company.

3. The location of the various exchanges, the number of telephones per exchange, with a breakdown among business, residential, and rural telephones. Also there might be added the type of present operation—whether magneto, common battery, manual, or dial—for each exchange. As a subsidiary bit of information, a rough description of the toll lines owned and the proportion of total lines in cable would be of interest.

4. The local exchange rates and, in the event a higher scale of rates is going into effect with the installation of automatic equipment, the proposed new rates.

5. The amount and purpose of the loan and an approximate schedule on which disbursements thereof are desired.

With this information in hand, a lending institution should not take long to make up its mind whether it has no interest or whether it wants to go ahead. In the event of the latter, an inspection of the property and territory and an interview with the management will probably be required, with or without the aid of an engineer selected and usually paid for by the lender.

¶ *". . . there is no guaranty that telephone wage levels will not go higher, and they possess a real threat to the earning power of the industry, already reflected in dividend cuts of some Bell subsidiaries. There is no doubt that the main hope of successfully coping with this problem is in the conversion of the system to automatic operation to the maximum extent possible. This is going to cost a lot of money."*

In determining interest in such financing, the most important single consideration is earning power. It often happens that independent telephone properties which have been manually operated cannot show present earnings sufficient to meet interest and amortization on the proposed loan by a safe margin. There may, however, be two offsetting factors. The first of these is a possible rate increase to go into effect when the system goes automatic. In the case of one loan recently negotiated by the writer, such commission-approved increase was equivalent to 50 per cent of present local exchange rates and was sufficient to bring about a doubling in net earnings available to pay interest. Such an increase may be justified by the greatly increased investment in plant on which a return must be earned, and a substantial improvement in service.

The other source of increased earning power is the elimination in large measure of operators' wages, which are the largest single expense item of many manually operated systems. It is true that a few operators usually have to be retained to handle toll calls and that there will be maintenance, depreciation charges, and taxes on the additional plant. However, a substantial part of the reduction in operators' wages will carry through to net, probably in amount sufficient to pay a reasonable return on the additional plant investment.

The Interest Rate and Related Matters

How high an interest rate should a borrower expect to pay on such a loan? That will depend on a number of factors. First of all, one must consider the size of the loan and the size of the borrowing telephone company. It is a hard fact that the cost of making such a loan is about the same regardless of the size of the loan. Therefore, a small loan to a small company will require a considerably higher interest rate than a large one in order to absorb the overheads. Very small loans—for example, those materially under $50,000—can hardly carry a rate sufficient to compensate for the expense; but a lending institution may still be willing to consider these either as a service to the local borrower or to avoid the hurt to its own conscience involved in turning down a little fellow.

At the other end of the scale of rates, a lender will not care to go down to a level which could be duplicated by investing in the open market in issues of equal quality, after giving weight to the expenses involved in private financing and with some allowance for the lack of marketability of the private loan.

Helping to determine relative quality of loans are the percentage of loan to total capital, the record of past earnings, and the probable level of future earning power. The size of the individual exchanges operated helps to determine the profitability of a system. Small exchanges which tend to be unprofitable are known in the industry as "turkeys." A relatively large system will have more strength through diversification of its business and territory, and through a greater volume of business to absorb overheads. Considering all factors, for such loans under $1,000,000 the interest rate should generally lie within the limits of 4½ per cent and 3¼ per cent, the former rate applying only to quite small loans and marginal loans. Considering the fact

Cost of Automatic Central Office Equipment

"At present price levels the cost of automatic central office equipment is no small matter, amounting to about $100 per line. In addition, a company is likely to find itself with a number of subsidiary expenses, including, for example, the cost of new buildings to house the new equipment, new telephones, dials for existing telephones, additional cable, etc."

that such a loan, after it is made, may represent over half the total capital structure of a company, and even in some cases in excess of 60 per cent of total capital, and considering the very low cost of setting up such a loan and the fact that the telephone company expects to earn 6 per cent on its total capital, this seems to be a reasonable range of rates. On a very few, comparatively gilt-edged situations, where the ratio of loan to property value is low, a rate slightly under 3¼ per cent might be forthcoming.

For how long a term should such a loan run? Generally twenty-five years is considered the maximum limit, and this term will be available mainly to companies in the upper-sized range. For smaller properties, where diversification of territory is lacking and the risk greater, the term may not run over fifteen years.

Amortization of the loan over its life will probably be requested, a rate of one per cent per annum being about the most favorable offered, and usually a considerably faster rate being considered appropriate. A practice which appeals to many borrowers is to have two rates of amortization—a minimum one which is mandatory, and a higher one optional to the borrower. When the borrower does not take full advantage of his right under the latter, he sometimes is given the right to catch up within a set limit. The writer has found that attitudes of borrowers differ widely. Some who have never been in debt before want to pay off their debt as quickly as possible, while others favor the good old utility custom of permanent indebtedness.

A farsighted borrower may wish to make provision for an expansion of the loan at some future date. He may have ambitions to acquire a neighboring telephone exchange or to acquire automatic toll recording equipment if

and when it becomes available. A loan agreement may provide for additional borrowing up to 60 per cent of the cost of subsequent net additions to the property, subject to a test of earnings being sufficient to safely carry the additional debt. Such a provision raises a problem. If it is contemplated that the total amount of indebtedness will be held by more than one investor, a trustee will be required; and this involves some expense to the borrower. This can only be avoided if it is provided that additional bonds to be sold can only be offered to the original lender, and trust that he will be willing to buy them when the time comes. It is wise, therefore, to select a lending institution which will be capable of and willing to make an additional investment in the company, subject to a satisfactory showing of credit worthiness.

MENTION was previously made of the relative size of some such loans in relation to total capitalization. It is to the advantage of the lender, and it should be the desire of a conservative borrower, to bring out-size loans into line with a conservative capital structure as quickly as possible. This can most readily be done by retaining earnings in the business. A formula used by the writer to do this involves limiting dividends to 60 per cent of earnings until the loan is reduced to 60 per cent of total capitalization, and limiting dividends to 80 per cent of earnings while the loan is between 50 per cent and 60 per cent of total capitalization. Thereafter dividends would be limited to 100 per cent of earnings.

SUCH private institutional loans have certain advantages to the borrower over public financing:

1. There is only a single concern to be dealt with rather than numerous, widespread bond- or stockholders, so that consent to desirable changes in the loan agreement is comparatively easy to obtain.

2. There is a minimum of financing expense, involving no underwriting fees or commissions, no bond printing expense, or trustees' fees. Usually legal fees can be eliminated by having such matters handled by the counsels of the borrower and lender.

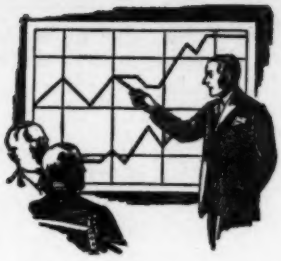
3. There is a saving of interest during the construction period, with the borrower paying only a modest commitment fee.

4. The borrower, in making such a loan, will probably establish a relationship which will be valuable in obtaining promptly additional financing as required. Over the long pull this may be a very valuable thing for a small company whose credit has not been publicly established. Also, it may serve the company in good stead during some future period of general financial stringency.

"IF we nationalize our mines it is going to result in less coal being produced. It will be produced at greatly increased costs, and the lack of production will limit production of all other types of goods. It will bring about a shortage of goods on the markets, because we cannot have an abundance of goods without an abundant supply of coal.

"We must also recognize when coal is nationalized and there is a shortage of goods and strikes in other industries that these industries will also be nationalized, and we will have complete statism. The thinking of America is not ready for this and never will be."

—JOHN D. BATTLE,
Executive Secretary, National Coal Association.



Cost *versus* Price: A Management Problem

A discussion of the value of cost analysis to public utility management in the attainment of more effective and equitable rate regulation.

By WILLIAM S. LEFFLER*

A CYNIC has been facetiously defined as one who knows the price of everything and the value of nothing.

This somewhat hackneyed witticism might conceivably be paraphased to apply to those who confuse "cost" with "price" in the field of public utility economics. Such confusion can be, and in this writer's opinion has been, the basis for much difficulty in the practical mechanics of regulation.

Let us therefore come directly to the point of fundamental distinction between cost analysis—sometimes called "costing"—and rate making—sometimes called "pricing." Costing is a fairly precise mathematical process which began its evolution as a special application of ordinary economics more than a half-century ago. It is simply the determination of the costs incurred in doing business. Where business is broken down into different groups or classes of service—as is the case of public utility operations—costing reveals, for each class and rate application, the return earned and the progressive costs incurred. It indicates (but does not dictate) the rate form which would more nearly follow the determined cost pattern.

The actual fixing of rates, however, is the function of pricing. In other words, costing can only show the limit below which pricing becomes noncompensatory.

Next let us look at pricing. This calls into play a number of elements, not all of which can be reduced to a precise mathematical basis. Pricing cannot be so restricted because it must cover, at the same time, rate classifications which may be competitive and those which, for policy reasons, cannot strictly follow the rate pattern indicated by cost

*For personal note, see "Pages with the Editors."

analysis. Any attempt to restrict pricing by "yardstick rates" or arbitrary regulatory fiat can only defeat the ultimate goal—proper and desirable pricing levels and procedures.

It will be seen from this that cost analysis, by its very nature, is a restrictive process. The analyst cannot accurately forecast his results nor, with honesty, develop answers designed to justify preconceived notions. Pricing, on the other hand, must, by its very nature, be an unrestricted process.

WITH this distinction in mind, here are five cardinal points to be recognized in pricing procedures:

1. *Each class rate should be such as to pay the cost of serving that class.* As a practical matter, it is impossible to adjust rates so delicately that no single customer of any class would be served at a loss. But there is a limit, or "tolerance point," beyond which trivial discriminations (in favor of a customer or class of customers) should not be permitted. Cost analysis will reveal this "tolerance point."

2. *Conversely, no class rate should provide an immoderate return upon investment.* Here again, cost analysis will reveal the limit of practical toleration, for guidance of both the regulatory authority and the company management.

3. *"Value of service" is the upper limit of any rate; but it still may be more or less than the cost of serving the business.* That may sound somewhat paradoxical. But here are examples: Let us say a new, "high cost" business—usually luxury service—suddenly appears in such a way as to threaten to burden the company's already established business. Under such circumstances, management should charge as high a price as compatible with "value of service." In this respect, we come pretty close to the old theory of "what the traffic will bear." On the other hand, suppose some new type of off-peak or controllable load appears, which the company cannot secure unless it is priced below the "value of service" to the customer. Under such circumstances, it is permissible to price new business at a rate which merely repays to the utility the cost (including capital cost) incurred in the addition of this business. It may not be prudent to do so, however, because new business, in order to be really desirable, should bear not only its "incremental cost" (cost of adding the business), but should also contribute to the good of the enterprise as a whole. In any event, it will be seen that "cost" is in no way affected by "value of service." It may either be greater or lesser than the latter, in special cases.

4. *Although each class of service may be separately priced they all should bear some responsibility for the existence of the system as a whole.* This is the real challenge to the art of skillful pricing. What it amounts to is the equitable measurement of the responsibility of the new customer, the old customer, and the owner of the utility, as reflected in rate schedules.

5. *Prices are not made by costs.* Costing can only show the effects of progressive pricing changes, and, within reasonable limits, what changes in pricing *might be required,* if any particular class of business were suddenly lost and no new business (of similar load characteristics) were available for replacement. But this is not the same, by any means, as falling

into the familiar fallacy that "costs could, or should, make prices."

THE techniques of costing, as applied to public utilities, are based on accepted methods of apportionment and analysis. The whole idea is to determine the cost of rendering service to each of several classes of customers. Of course, even though the costing procedure is largely mechanical, common sense can determine where the cost analyst can take short cuts. It will also tell him where detailed investigation, however tedious, cannot be avoided.

Cost analysis, therefore, furnishes management with a guide for changing prices. It does this in two ways: (1) It shows up a class rate which has become "out of line" (with respect to cost) as compared with other class rates; and (2) it gives management a seasonable opportunity either to change or to justify that rate.

It obviously follows that cost analysis can be equally enlightening to the regulatory authority, which has the statutory duty of fixing rates which are free from "unwarranted and unreasonable discrimination." It is a well-settled principle in regulatory practice that not every rate discrimination is an *unlawful* discrimination. Indeed, as we have seen, practical rate making does not permit such a precise adjustment as to eliminate all theoretical rate discriminations. But the regulatory authority, which should be just as interested as management in seeing that utility rates remain within the limits of "tolerance," can best accomplish this through the X-ray test, so to speak, of cost analysis.

For this reason, management and regulation can use the cost study coöperatively. Management can use it as a prelude to pricing, to determine how much of the total return shall be contributed or collected from the individual customer or class of customers. The regulatory authority can double check the results on the basis of cost analysis data developed by the company.

Stated another way, regulation concerns itself primarily with "established fair value" of used and useful property. Management's concern, in pricing, is to provide and maintain plant adequate to serve the present customers and also meet future growth requirements. Experience shows that the purpose of both regulation and management will be accommodated if the cost study is firmly grounded on a costing base (capital and expense) expressed in properly balanced current costs, or as near thereto as practicable. There is no such thing as a constant "costing base" nor any continuing "yardstick" relationship between the costs per kilowatt hour delivered to each of the major classes of service. Consecutive cost analyses frequently reveal that the cost per kilowatt hour delivered to one class of business is trending upward, while during the same period the cost per kilowatt hour delivered to another class is trending downward.

¶ "COSTING *is a fairly precise mathematical process which began its evolution as a special application of ordinary economics more than a half-century ago. It is simply the determination of the costs incurred in doing business.*"

As already indicated, cost analysis not only gives management timely warning of "out-of-line" rates, but, by the same token, provides an opportunity to make the necessary gradual transition. An electric company client of this writer had its first cost allocation made in 1926. This showed that commercial business produced the highest rate of return, while "sales of energy to other utilities" produced the lowest return. This disparity in rates of return was of the order of 229 to 1. This was clearly too much. In following years, the management of this company was able to make such adjustment that by 1940 the ratio of maximum to minimum class return had been reduced to about 2 to 1, which was assumed to be a reasonable differential as of that time. The illustration (see Chart I) accompanying this article depicts this transition and it will be noted that the lowest class return in 1946 was earned by "municipal street lighting," not "sales to other utilities."

Cost analysis has its own tool kit of phraseology which indicates the mechanics of the process. We cannot go into details here. There are, for example, "cost allocation," "cost analysis," and "cost appraisal." The distinctions between these three procedures are not sharp, for the accuracy of one shades into that of another in the course of collecting and utilizing the basic information. But in all of these we deal with five general elements of cost causation for the existence of investment and operating expenses. These elements are:

1. *Customer costs.* These embrace all the costs to serve the customer whether or not he uses any electricity at all. For example, they include investment and expenses associated with services, meters, customer accounting, collecting, business promotion, etc.

2. *Demand costs.* These include all the costs connected with "readiness to serve" a customer who is actually using energy in excess of minimum requirements. Such costs take in fixed and operating charges on production and transmission plant, and part of distribution charges.

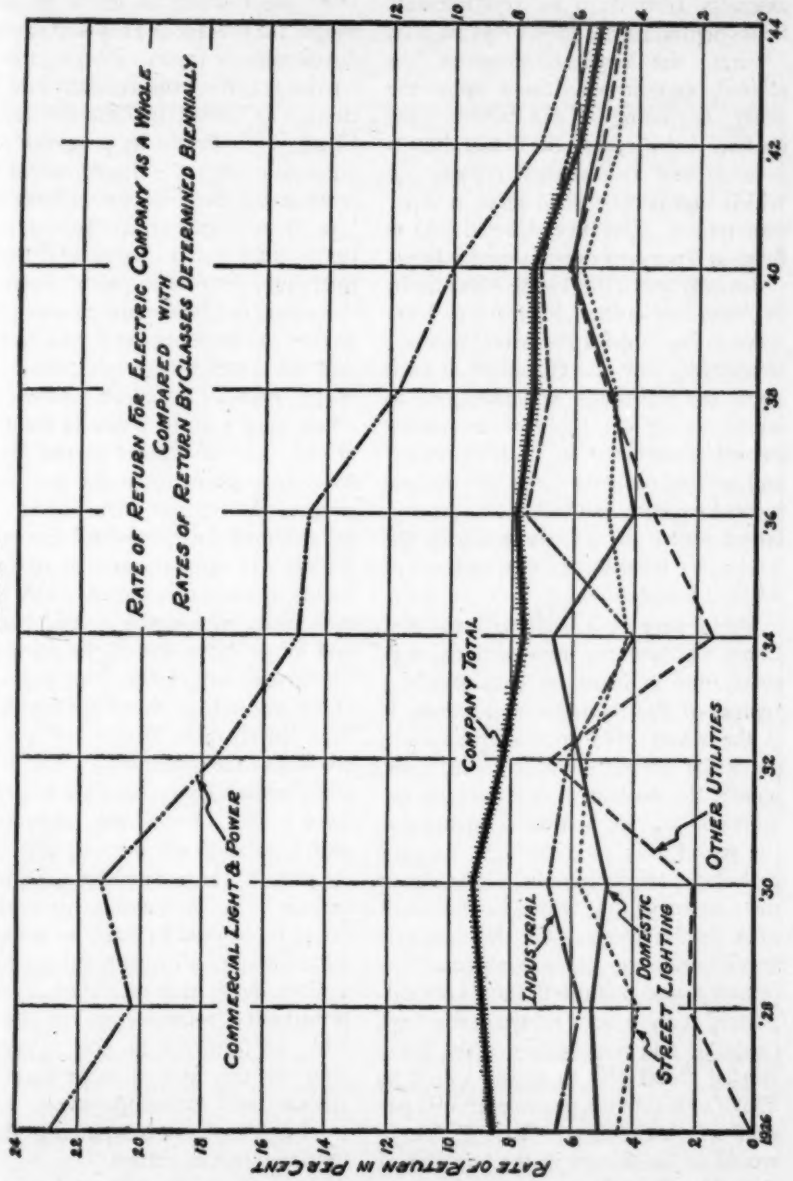
3. *Energy costs.* These are the investment and expense costs which are proportional to the kilowatt hours delivered, regardless of the rate of use (or demand).

4. *Direct charges.* These are special costs which are applicable to certain classes of utility service, such as street lighting, maintaining fire hydrants, etc.

5. *Income costs.* These are miscellaneous expenses, such as excise taxes, income taxes, and collection expense, which are a function of gross revenue or net income. They are apportioned on the basis of revenue or taxable income from each class which incurs the individual expense.

The next step in costing is to develop within each class of service the investment and expense for each unit of cost causation. Then those units are used to calculate the progressive cost to deliver the varying amounts of energy required by any individual customer or group of customers with known characteristics of consumption and load factor in each class. The graph of this progressive cost to serve is called a fundamental cost curve. The various components of cost entering into the total cost to serve a domestic

CHART I


RATE OF RETURN FOR ELECTRIC COMPANY AS A WHOLE COMPARED WITH RATES OF RETURN BY CLASSES DETERMINED BIENNIALLY
COMMERCIAL LIGHT & POWER
COMPANY TOTAL
INDUSTRIAL
DOMESTIC
STREET LIGHTING
OTHER UTILITIES
RATE OF RETURN IN PER CENT
1926
'28
'30
'32
'34
'36
'38
'40
'42
'44

customer who uses energy in various amounts from zero to 160 kilowatt hours per month are shown on Chart II.

First, the expense elements are plotted, superimposed one upon the other, beginning at the bottom—the customer component, the demand component, and the energy component, which sum up to cost to serve at 0 per cent return. The curve labeled cost to serve at 0 per cent return represents expense only and it marks the lower limit, or "tolerance point," for pricing. Next there is determined the investment responsibility for the customer at each point of increasing consumption, to which is applied the rate of return earned by the class (*i.e.*, 3.95 per cent), and, adding property computed tax and income expense liabilities for each dollar of return earned, there results the final curve labeled total cost to serve at 3.95 per cent return.

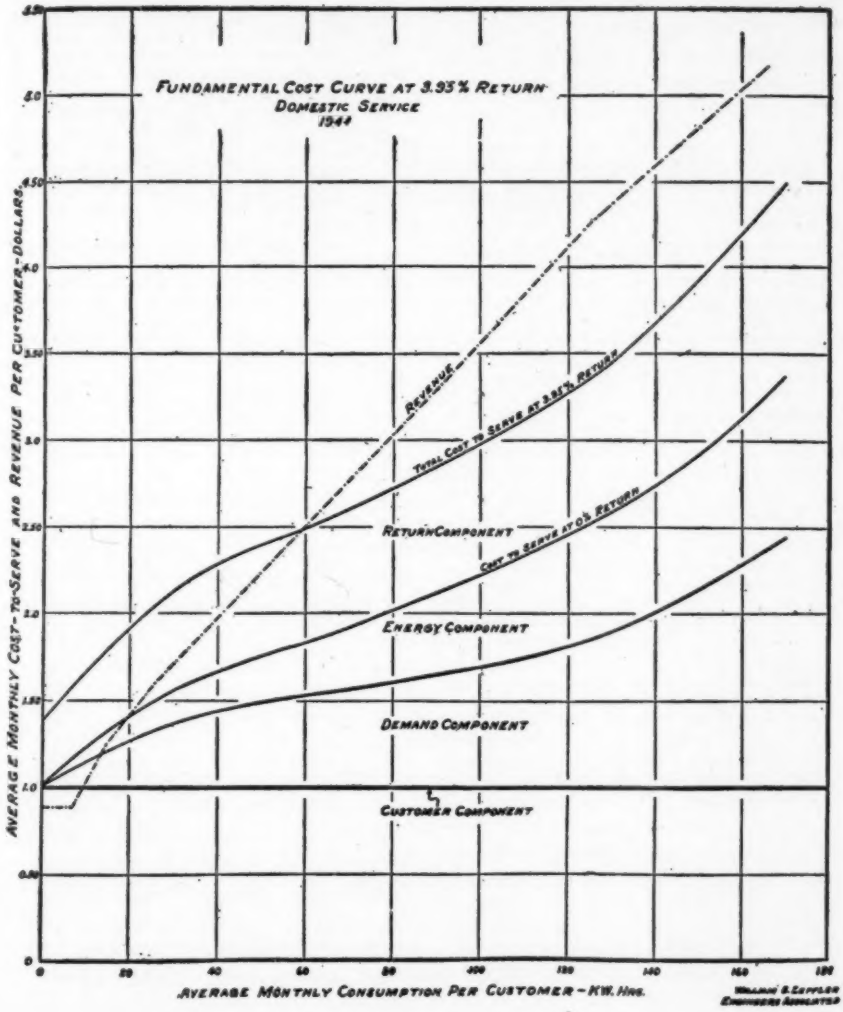
Right here it is well to state that Chart II does not represent average costs, nor is it to be considered as typical of the industry as a whole. It is the result of a cost analysis on a particular property with a return component the same as was earned by the domestic service in that company for the year 1944; and, except in its general slope, might bear little relation to the cost curve that would be the result of a similar analysis on the domestic service in some other company. The return component might have been calculated at any rate of return deemed appropriate and the plotting of the curve labeled "total cost to serve" would be above or below the position at 3.95 per cent return shown on Chart II. There would be no change in the position of the curve labeled cost to serve at 0 per cent return.

WHEN it comes to pricing, management wants to know at which usages the present or proposed rate produces gains or losses. Plotting the rate on the graph of the fundamental cost curve (as shown in dash-dot line on Chart II) indicates its progressive relationship with the fundamental cost patterns but does not demonstrate: (a) how many customers are paying prices below total cost to serve and the annual aggregate amount of these deficiencies, (b) how many customers are paying prices above total cost to serve and the annual aggregate amount of these excess payments. Obviously, when total cost to serve is computed at the rate of return earned by the class as a whole, then the annual aggregate deficiencies incurred in serving the limited use, low-load-factor customers will equal the annual aggregate excess payments exacted from those customers who make more generous and longer-hour use of the company's investment devoted to their service.

We cannot, in this brief article, go into the further details of the mechanics of the cost analysis. But the accompanying illustrations show how the "end result" gives both management and regulation an over-all picture of the return the major class of utility service may be paying, through its rates, from year to year, as compared with the over-all return earned by the utility; and, within each class, show the progressive relationship of the rate with the fundamental cost patterns as well as the annual aggregate deficiencies and excess payments to the total cost to serve computed at the determined rate of return.

As evidence that the state commissions are beginning to welcome cost

CHART II


FUNDAMENTAL COST CURVE AT 3.93% RETURN
DOMESTIC SERVICE
1944
REVENUE
TOTAL COST TO SERVE AT 3.93% RETURN
RETURN COMPONENT
COST TO SERVE AT 0% RETURN
ENERGY COMPONENT
DEMAND COMPONENT
CUSTOMER COMPONENT
AVERAGE MONTHLY COST-TO-SERVE AND REVENUE PER CUSTOMER-DOLLARS
AVERAGE MONTHLY CONSUMPTION PER CUSTOMER - KW. HRS.
WILLIAM S. LEFFLER ENGINEERS ASSOCIATED

analysis as a valuable instrument in replacing theoretical regulation with factual regulation, here is a brief quotation from a statement made at the twenty-second annual conference of state utility commission engineers (May, 1944) at St. Louis, by the chief engineer of the Connecticut commission:

> Economic change is always an aftermath of war. Technological changes are sure to follow the present war. The utilities cannot hope to escape the effect of these changes. No one can positively predict the direction of rate adjustments. On one thing we can count; rate changes will be proposed. When continued increases in tax, labor, and fuel costs have been accompanied by rising prices of all other commodities and services, it will be difficult, if not impossible, to keep utility rates down. The economic hardships of inflation and the technological developments of low-load-factor business, such as television and air conditioning, together with the probable loss of the long-hour loads to packaged power, all combine to further support the prediction that whatever rate adjustments are proposed by the utilities will be upward rather than downward.
>
> Hence, the question immediately arises as to whether the necessary revenue relief is going to be granted on the old "hit-or-miss," or "horse-trading," methods or will the rate revisions be based on an analysis showing which rates should and must be increased, and which price steps can be revised downward in the hope of attracting desirable new usage. Here, then, is where more accurate knowledge of costs becomes as valuable a tool to the regulatory authorities as it has been to those utilities whose management used it to guide them in scientifically making rates and formulating the most effective promotional policies.

LIKEWISE, consider the following excerpt from a report of the committee on rates at the 1946 convention of the National Association of Railroad and Utilities Commissioners at Los Angeles:

> In the determination of a fair rate of return considerable thought should be given to arriving at a return which will have some stability . . . *To reduce rates to the lowest common denominator,* with the prospect of further labor and price increases, *can conceivably bring the earnings* of a company *to a point where a rate increase is not only warranted, but imperative,* in order that the company can provide the maximum service for which it was organized. We are entering an expanding market for the uses of electricity and gas, and, unless a company is in a position to readily finance the expansion, the public interest will suffer accordingly . . . *The public interest will best be served by slow adjudication and continual analysis* of the main factors making the rate, such as the costs of labor, fuel, and materials, depreciation and capital costs, along with prospective revenue increases derived from the promotion and sale of electricity and gas. *Only with such continual analysis can justice be achieved both to the customer and to the company* . . .
>
> We have now arrived at a reasonable basis for the regulation of rates. *Factual regulation should now replace theoretical regulation,* which has been burdensome for years . . A company, after conference, may agree to divide three ways any increment over and above a fair return; to the ratepayer who pays all bills, to the employee who provides the good management, and to the investor who furnishes the capital. This would appear to be in the public interest and good regulation . . . (Emphasis by the author.)

As the foregoing committee pointed out, the utility industries are entering an expanding market for their services and, unless a company is in a position to finance the expansion, the public interest will suffer. But such financing can only be accomplished when equitable treatment of invested capital is assured by reasonable regulation of rates.

It follows that public interest will be best served by a *continual analysis* of the main cost factors before making the rate. Only through this valuable instrument, "cost analysis," can justice be achieved for both the customers and the company. Only through this instrument can management be provided with demonstrable costs as accurate guides for determining the trends in rates of return to be expected from: (1) additions to capital, (2) proposed changes in operating procedures, (3) variance

in sales promotion, (4) expected growth or predicted diminution in class loads.

Costing provides management with a guide for pricing; and, if factual regulation is to replace theoretical regulation, costing provides utility management with the means for demonstrating to regulatory authority the soundness and equity of its pricing.

Jobs by Act of Congress

"DID you know that a select few of Capital Transit's employees can truthfully say their jobs are a result of an act of Congress? It's true, and the men we speak of are those who work as pitmen and trolleymen in our plow pits at the end of the underground conduit system. They convert the cars from the use of the underground plow, to the overhead trolley.

"Way back in the 1880's the various transit companies in Washington began to convert their lines from horse- and cable-drawn cars to electricity. Alarmed at the potential danger from the overhead wires that were the accepted method of carrying the current, Congress passed a law. It expressly forbade the use of overhead trolley wires in the city of Washington.

"As passed, the law applied only to the city of Washington which, at that time, embraced only the territory south of Boundary street (now Florida avenue). Everything north of Boundary street was the District of Columbia.

"The transit companies, already faced with the expense of converting their lines to electric power, were now confronted with the added costs of the underground system. Unique, then and now, in this country, the underground construction costs were more than triple that of the overhead trolley system.

"With the law against overhead trolley wires on one side and economic necessity on the other, the transit companies chose the middle road. They used both systems. Underground construction was installed within the boundary, and a little beyond. Overhead trolley wires went up on the rest of the trackage. The plow pits, and their attendants, were the connecting links between the two systems. The law was obeyed, and the companies were spared a portion of the additional expense.

"The dual system has continued in use, for the same reason that the original companies chose it. Aside from the economic angle, there is also the fact that the overhead system is easier to maintain, and is less subject to outside interference."

—EXCERPT *from "Transit News," published by Capital Transit Company.*

Washington and the Utilities

What Utility Lobby?

As the smoke of the first session of the 80th Congress clears away, it is difficult to discover very much evidence of the iniquitous work of former Secretary of Interior Ickes' perennial nightmare—the utility lobby. This despite almost daily jeremiads by Ickes in his capacity of newspaper columnist, and some half-dozen other nationally known newspaper columnists and radio commentators whom Representative Miller (Republican, Connecticut) had charged with being "rewrite men" for government propaganda.

In any event, not a law was passed which would give the public utility lobby, as such, any cause for comfort or congratulation. The Miller bills to restrict the jurisdiction of the Federal Power Commission over electric utilities did not get out of committee. The Rizley Bill to restrict FPC jurisdiction over natural gas operations passed the House but was tabled by a Senate committee so that it would now take affirmative action to revive the measure in the upper chamber. As a matter of fact, the 6-to-5 vote of the Senate committee, taking into account two absentees, makes it very doubtful if the Rizley Bill can be revived next year.

The Dondero Bill to shift public power marketing authority from Interior to the FPC likewise languished in committee, as did the Byrnes Bill to end FPC domination over state commissions in the matter of accounting requirements for interstate utilities. The Rockwell Bill to reform the Reclamation Bureau's double use of interest payments was still delayed even after being diluted by a compromise which had been expected to make its passage through Congress an easy matter.

Of course it would be difficult to prove that some of these bills were pro-utility in the sense that they would actually benefit utility industries. But any bills having to do with correcting regulatory or public power operations of the Federal government were unhesitatingly labeled as "pro-utility" by those who would have to take the disciplinary medicine if such laws were enacted. Nobody likes to take medicine and in this case the old childhood device of diverting parental authority through distracting attention to something else proved quite successful.

True, Interior's Reclamation Bureau suffered some heavy cuts in appropriations (nearly 40 per cent less than budget requests). But this lush department has usually been a target for the economy bloc, even during the Democratic Congresses of the later-day New Deal. The REA made out unexpectedly well with lending authority of $225,000,000 — as large as it ever obtained in its entire history, beside a comfortable boost in administration funds ($5,000,000). If there was any lobby working in connection with REA, it was certainly not the utilities and it was certainly quite successful.

True, also, any of the foregoing bills are in a position to get going again at the next session. Some of them, such as the Rockwell and Rizley bills, seemed to have possibilities. But certainly nothing has happened to date to indicate any substance for the alarums which Mr. Ickes and others have been crying about foul play and dirty work by the "vested interests." Maybe such things are going on in the nation's capital, but they certainly are not paying off. On the contrary, what does seem to be paying off is some pretty effective lobbying in favor of the

St. Lawrence seaway project which made better progress in the 80th Republican Congress than during the entire duration of the New Deal.

INCIDENTALLY, Howard Wahrenbrock, assistant general counsel for the FPC, admitted before a subcommittee of the House Interstate and Foreign Commerce Committee that there might well be such a thing as an identical source for newspaper columnists' articles which appeared simultaneously in different syndicated columns attacking the Miller bills. Wahrenbrock, who appeared in opposition to the Miller bills, was dismissed from the witness stand after six hours of testimony, after which Representative Hall (Republican, New York), chairman of the subcommittee, decided that he had heard enough. Even so, Wahrenbrock complained that he had not had time to prepare "the kind of a case I would like to have prepared." Representative Hall observed that Wahrenbrock's testimony repeated about the same information contained in "newspaper articles" which had attacked the Federal bills. Hall then asked the witness point-blank, "Would you say they are from the same source?" Wahrenbrock replied, "Inasmuch as they reflect the same point of view, I would say yes."

St. Lawrence Next Year?

THE favorable vote of the Senate Foreign Relations Committee (9 to 4) to report the latest version of a St. Lawrence seaway-power bill was not the only omen in favor of passage of such legislation next year. This is not to suggest with any degree of assurance that the bill *will* be passed next year. There is still a formidable economy bloc in the lower house, plus a terrific amount of opposition from eastern seaboard port states. Even assuming that the new St. Lawrence Bill gets away to an early start with Senate passage next year, it will have to clear these two difficult hurdles.

But the other favorable omens were (1) the vote of Senator Wagner of New York and (2) the active support of the powerful conservative Republican Gannett newspaper chain, which operates in upstate New York. Senator Wagner has been flirting with St. Lawrence legislation for a long time. But port interests in New York city and railroad shipping interests in Buffalo have always had a restraining influence, so that he did not definitely come out in the open in support of the measure until recently. Wagner's former Democratic colleague, Senator Mead, and his present Republican colleague, Senator Ives, are on record against the bill, as might be expected of other Senators representing eastern seaboard states with important port cities.

But the paradox (by which this lone major objective of the New Deal remained unsuccessful during all the days of the New Deal and now seems to be making some headway in a Republican Congress) is explained by geography. The St. Lawrence seaway is essentially a contest between middle western Lake states and eastern seaboard states for economic benefits of transportation control.

OF course, there has been a lot of talk about hydro power and the opposition of the power trust. But any well-informed Washington observer knows that that has been just so much camouflage. The so-called power trust has been so helpless, as far as influencing congressional legislation is concerned, that if the power development features of the St. Lawrence Bill were the only thing at issue it would have been passed long ago. And all politically mature Congressmen know it. But it is handy political argument to talk about the "power trust" while soft pedaling the economic benefits which might be transferred from such ports as Boston, New York, Philadelphia, or Baltimore to the inland Lake cities of Duluth, Detroit, Erie, and so forth. Chicago and Buffalo are Lake cities, but their railroad interests are likely to offset port benefit gains, and so there is not too much enthusiasm in those municipalities.

Translating this geographical difference into political difference, it will be easily seen that the cradle of Republican strength lies right in these same middle western Lake states, while much of the Democratic strength outside of the silent South has stemmed from the large eastern city populations. And so, during the days of the New Deal and Democratic domination, this one New Deal measure —the St. Lawrence project—fell under a shadow of conflicting interests. It is still under such a shadow; but the shadow seems to be shrinking as the Middle West Republican majority swells in Congress. All things told, it looks like a pretty lively issue next winter on the St. Lawrence business.

Another difference in the present St. Lawrence Bill, which distinguishes it from the public-spending versions of the New Deal days, is the self-liquidating feature. This is supposed to make the measure go down a little easier with the economy crowd in Congress. The Army now figures that the navigation development, plus the power features completely finished, is about $674,000,000. The Federal government's share would be $330,609,000. There is the usual well-founded skepticism over government cost estimates, but that is what the Army said.

THIS would not provide much of a waterway as channel depths go. Only a minimum of 27 feet from Duluth, Minnesota, to the Atlantic—thus automatically disqualifying most American cargo ships (84 per cent) from using it. And, of course, there would be six months in the year when nobody would use it, except Jack Frost and a few ice skaters.

Even among shipping interests there is skepticism that the seaway can handle anything like 40,000,000 tons a year, which Secretary of Commerce Harriman predicts.

A good bit depends on the condition of the railroads next year. Right now the railroads still have the superficial appearance of prosperity in the form of more traffic than they can bear. Proponents of the St. Lawrence seaway can be counted upon to make the most of that argument. But if the railroad traffic and profits fall off to an extent which might cause worry about the nation's backbone of transportation, Congress might take a different view of the matter. However desirable a seaway might be, no American Congress is ever likely to vote for it if there is a lingering doubt that it might wreck the props that support the nation's railroad system.

On the power development side, New York state would contribute $161,000,000. Nobody is putting up much of an argument about the power development feature.

SEC Mellowing?

NEWS that the SEC might come back to Washington real soon caused no great amount of cheering in public utility circles. It is not expected to make much difference as far as permanent SEC policies are concerned what particular city the commission happens to be living in at the time. But it is a coincidental fact that, when the SEC started its wartime exile in Philadelphia, the relations between the regulators and the regulated holding companies and affiliates were less than cordial in many instances.

At that time the commission was composed of Chairman Edward C. Eicher and Commissioners Healy, Purcell, Pike, and Burke. This membership of the commission has turned over 100 per cent. Today the roster is Chairman Caffrey, and Commissioners McConnaughey, McEntire, Hanrahan, and McDonald.

Because of the self-liquidating character of the Holding Company Act regulation, the nature of the commission's relations to the utility industries has likewise changed. All of the major holding companies have either had plans approved or in the process of being approved, and the underlying reasons for some of the ancient bitterness has been eroded by a combination of time and what the striped-pants lawyers refer to as *stare decisis*.

Probably no part of this changing relationship can be traced to the proximity of Philadelphia to New York city or any place else. But the utility men know that the SEC back in Washington is quite likely to some extent to be politically conscious, from the humblest staff member to the top level. The atmosphere of Washington always has that effect. One evidence of better understanding between the SEC and the utility industry was seen by *The New York Times* utility expert, John P. Callahan, in reviewing a speech made at the recent Boston meeting of the state utility commissioners. This was an address by SEC Commissioner Richard B. McEntire. Callahan stated flatly:

> Aside from a few chidings, however, the speech was interpreted by many utility executives as (1) "the most thoroughgoing study of the industry by a Federal agency in recent years with a conclusion that we are in the soundest financial position in our history"; (2) "convincing evidence to the investing public of our soundness"; and (3) "a speech in marked contrast with the dressing-downs that we came in for a decade ago." Only a negligible few power and light men took an opposite view.

Commissioner McEntire warned in this address that, while the utility companies "are ceasing to be captive to holding companies running them by remote control," great danger lies in the possibility of the industry and regulatory authorities becoming complacent, with the result that there may be "a great erosion of the ground gained in the last ten years." Although he granted that many utilities accepted regulation, each of the standards set up by the agencies "was resisted by some of the companies and many battles were fought in the conference rooms and hearing rooms of regulatory agencies, state and Federal, over adequate equity ratios, adequate depreciation accruals and reserves, strong indenture and preferred stock protective provisions."

Foreseeing the not-far-off time when the SEC will no longer have jurisdiction under the Holding Company Act over most of the utilities, Commissioner McEntire pointed out that 144 companies, with assets of $4,250,000, have already passed from the jurisdiction of the SEC to local regulation. Here he outlined the expanding responsibilities of the state commissions as control over utilities in their territories shifts to them, and stressed the need for such commissions to adhere to the lessons learned during the years of SEC control. Among them were insistence on a balanced capital structure with a substantial amount of common stock equity which would provide "a considerable amount of insurance against the dips of the business cycle" and a program of systematic debt reduction. Turnover of capital is "very slow" in the industry, he declared, "and long-term financing, therefore, fits its economic pattern best."

Behling Appointment Waits

The appointment of Burton N. Behling to the vacancy on the Federal Power Commission failed to clear the last-minute rush of Congressional business prior to adjournment. There was little or no opposition to Mr. Behling personally. But his nomination by President Truman ran into a succession of procedural difficulties for which neither Behling nor anyone else could be held responsible. First was the jurisdictional squabble between two committees. After that it fell afoul of the partisan strife over the National Labor Relations Board appointments.

The Republican strategy was apparently to leave the NLRB nominations—especially the appointment of former Utah Senator Abe Murdock—without action, so as to make a recess appointment necessary. In this way, the GOP can hold the threat of rejection over Murdock's head if he shows any inclination to scuttle the Taft-Hartley Act, as a member of the NLRB. But, in blocking out final action on the Murdock appointment and other NLRB appointments, Commissioner Behling's appointment to the FPC, and several others, were unluckily blanketed into the same category. No recess appointment was possible.

Financial News and Comment

By OWEN ELY

Breakdown of Competitive Bidding?

DURING the period of declining money rates and rising bond prices, the practice of competitive bidding for utility security offerings (required by the Securities and Exchange Commission and some of the state commissions) apparently worked satisfactorily, despite bankers' fears at the time Rule U-50 was issued by the SEC. But now that money rates are rising and the Treasury Department has relaxed or reversed its former insistence on "easy money," competitive bidding does not seem to work so well.

New offerings have been very heavy this year, and "new money" issues to finance the utility construction program have been a substantial part of the program. In the first half of 1947, according to the *Commercial & Financial Chronicle*, utility financing in millions compared as follows with similar periods of recent years:

Year	*New Capital*	*Refunding*	*Total*
1947	$684	$696	$1,380
1946	88	860	948
1945	14	750	764
1944	9	317	326
1943	14	113	127

Obviously the heavy volume of utility offerings, particularly new issues, has temporarily overloaded the institutions, resulting in the so-called "buyers' strike." It is estimated that about three-quarters of all utility bond offerings are purchased by institutions. In the first half of 1947 42 large life insurance companies bought $645,000,000 utility bonds and $31,000,000 stocks, a total of $676,000,000, or about half the total offerings. Other insurance companies including fire, casualty and marine, benevolent societies, etc., probably purchased a substantial additional amount. In the week ended June 28th, the big life companies bought $64,000,000 utilities and in the holiday week of July 5th $52,000,000; in the following week $27,000,000, and in the week ended July 19th only $19,000,000.

EVIDENTLY the life insurance companies found themselves surfeited with utility securities around the mid-year, but the pressure of new offerings continued. Only about half of the two huge telephone bond issues (American Telephone and Telegraph and New York Telephone) were placed at the original offering prices, according to press reports.

A number of smaller offerings were slow or "sticky."

Preferred stock offerings have been even harder hit than bonds. California Oregon Power withdrew its offering of preferred stock on June 18th, and on July 29th Florida Power & Light received no bids for its proposed preferred stock offering (although the bond and debenture offers were apparently reasonably successful). The offering of Public Service of Colorado 4¼ per cent preferred at par July 28th proved a "turkey," at first, but rapidly moved out as dealers and institutions recognized it as a bargain tax wise for corporate holders.

How much of this oversupply resulted from competitive bidding is, of course, difficult to guess. Moreover, the long period of successful offerings has apparently blunted the usual sense of caution

in buying new issues. And, of course, mistakes were made before competitive bidding became a requirement. But it seems doubtful whether we ever before had such a series of "slow" utility issues as recently experienced. A single negotiator, acting both as advisor and banker to a utility company, would probably have counseled delay in a period like the present one. Such a firm would presumably be closely in touch with the big life insurance companies which control the demand, and would be more successful in getting the "feel" of the market than half a dozen houses competing against each other.

However, competitive bidding is firmly established as an SEC rule, and modification as the result of recent difficulties is very unlikely. Fortunately the trouble occurred at a time when the stock market was advancing; and most of the banking houses may not lose heavily in disposing of offerings when syndicates are terminated. A recess of a few weeks may restore more normal conditions. Nevertheless, state legislators and commissions may well study the recent failure of competitive bidding to gauge conditions of demand and supply, before adopting the recent advice of an SEC commissioner to require competitive bidding for the increasing number of companies now being released from SEC jurisdiction (as requirements under the Holding Company Act are satisfied).

"Due Diligence Meetings" and Selling Methods

WALL STREET houses are familiar with "due diligence meetings," though some investors might be puzzled by the term. It is the nickname applied to underwriters' meetings in connection with competitive bidding on new security offerings. The members of each bidding group are supposed to exercise due diligence in informing themselves about the new issue, and each house customarily sends one or more representatives to take notes and compile a report of the proceedings. This is filed away in the bankers' archives as protection against the possible day when some customer may sue, claiming misrepresentation. Wall Street lawyers feel that such a report is necessary evidence of "due diligence" in checking the facts about the security offering.

Some due diligence meetings are highly perfunctory, the prospectus being reviewed section by section without undue waste of time; questions are answered, though not encouraged. But other companies whose securities are not in the top investment brackets frequently supplement perusal of the prospectus by a prepared or extemporaneous talk by an executive of the utility company. In some cases this may even be a peppy sales talk. In a few cases the issuing company has prepared elaborate exhibits, charts, etc.; pictures of the various properties are shown on a screen, with accompanying explanation.

These meetings to some extent replace the old-time "junket" or free expedition to the company's property (with entertainment on the side). Such trips may still be given by the railroads occasionally, but the utilities dropped the practice in the 1930's. Of course each head of a bidding group usually sends a representative to inspect the property and write a "due diligence" report of his findings, but these trips are likely to be circumspect, with the banking house paying all expenses except for a free lunch or so. Other members of the bidding group seldom send a representative on these trips, unless the plant is near-by. Instead, the president of the company tells his story at the underwriters' meeting. Questions are answered with surprising frankness, with little attempt, as a rule, to evade issues over accounting adjustments, etc.

ONE defect in the present system is the fact that underwriters' meetings are frequently held a week or less before the bidding date. This gives very little time for the preparation of selling memoranda for the use of the firm's partners and salesmen in advising their customers about the issue. This time is too short, since it leaves only three or four business

days to advise potential customers. It would seem advisable to have the meeting at least ten days before the bidding date.

It is now permissible to hand the "red herring" or preliminary prospectus to customers (usually institutions) without violating the Securities Act as interpreted by the SEC. But there is still considerable doubt whether the selling memorandum (usually labeled "for office use only") can legally be shown to customers. Unfortunately, the prospectus is a legal document, not a selling story. Valuable information (such as plant write-off details) may be buried in obscure footnotes. Frequently the prospectus does not include complete *pro forma* figures such as share earnings, number of times interest and preferred dividends are

PUBLIC UTILITY SECURITY OFFERINGS IN SECOND QUARTER OF 1947

Date of Offering	*Moody Rating*	*Security*	*Amount (Mill.)*	*Offering Price*	*Principal Syndicate Head*
		Bond Issues			
4/3	Baa	Michigan Gas & Elec. 1st 2¾/76	$ 3.5	101.45	Harris, Hall
4/23	A	Northern Nat. Gas deb. 2½ 1956-67	10.0	...	Blyth
4/24	Aa	No. States Pr. (Wis.) 1st 2¾/77	19.0	101.25	Kidder, Peabody
5/1	Aa	Cons. Edison 1st & ref. 2⅝/77	100.0	101.05	Morgan Stanley
5/15	Ba	National Gas & Oil deb. 4¼s/62	1.8	103.00	G. H. Walker
5/14	A	Southern Calif. Water 1st 2¾/77	5.1	102.75	Blyth
5/21	Baa	So. Carolina Pr. 1st & ref. 3s/77	4.0	103.00	First Boston
5/29	Baa	New England Elec. Sys. deb. 3s/77	25.0	101.50	First Boston
5/28	Baa	New England Elec. Sys. 3¼/77	50.0	102.91	First Boston
6/4	Aa	Amer. Tel. & Tel. deb. 2¾/87	200.0	102.88	Morgan Stanley
6/4	Baa	Upper Peninsula Pr. 1st 3¼s/77	3.5	102.88	Halsey, Stuart
6/11	Aa	Consol. Edison 1st & ref. 2¾/72	60.0	102.00	Halsey, Stuart
6/12	A	Mississippi P. & L. 1st 2¾/77	8.5	101.13	White, Weld
6/12	A	Michigan Cons. Gas 1st 2¾/69	6.0	102.05	Halsey, Stuart
6/19	A	Pub. Ser. of Col. 1st 2¾/77	40.0	103.25	Halsey, Stuart
6/18	A	Toledo Edison 1st 2¾/77	32.0	103.16	First Boston
6/26	Baa	Hawaiian Elec. 1st 3/77	5.0	103.00	Dillon, Read
6/26	Baa	Kentucky Utilities 1st 3/77	24.0	101.985	Halsey, Stuart
6/25	A	Pub. Service of N. H. 1st 2¾/77	4.5	101.92	First Boston
6/26	Aa	So. Bell T. & T. deb. 2¾/87	75.0	102.80	Morgan Stanley
6/25	Aa	So. Calif. Gas 1st 2¾/77	12.0	104.21	White, Weld
		Preferred Stocks			
4/2		New Eng. G. & E. 4½% conv. pfd.	$ 7.8	$103.00	First Boston
4/14		*Mich. Gas & Elec. 4.40% pfd.	1.4	101.00	Otis
4/24		*Conn. Light & Power $2 pfd.	16.8	53.50	Putnam
4/24		Conn. Light & Power $1.90 pfd.	8.2	52.00	Putnam
6/4		Upper Peninsula Pr. 5¼% pfd.	1.0	104.00	Otis
6/10		*Dayton Pr. & Lt. 3.75% pfd.	10.0	101.50	Morgan Stanley
6/10		Dayton Pr. & Lt. 3.75% pfd.	7.5	102.00	Morgan Stanley
6/12		*Central Arizona L. & P. $1.10 pfd.	3.9	27.50	First Boston
6/18		Toledo Edison 4¼% pfd.	16.0	103.63	Blyth
		Common Stocks	*No. Shares (000 Omitted)*		
4/2		Michigan Gas & Elec.	120	$17.75	Otis
4/2		Maine Pub. Ser.	150	22.00	Merrill Lynch
5/5		Tide Water Power	164	8.625	Union Securities
Apr.		Missouri Utilities	15	20.00	Edward D. Jones
6/24		Calif. Oregon Power	408	22.25	Blyth
6/24		*Gulf States Utilities	24	15.25	Bear, Stearns

*Public offering of balance of issue after exchange or subscription offer.

earned, capital ratios, etc. (although these figures are sometimes obtainable in other documents filed with the SEC).

As previously indicated in this department, we think these essential ratios should always be featured in the prospectus. Since SEC practice in requiring (or permitting) such information in the prospectus seems to vary considerably, it is necessary to present these figures in the sales memo and the "comparison sheet." These unofficial but indispensable selling aids could be eliminated in some cases, and their preparation would be simpler and more accurate, if the SEC saw to it that all the necessary figures and ratios were featured in the prospectus. Still better, the SEC should require an abbreviated prospectus, preferably on both sides of one sheet—or not longer than the old-fashioned 4-page circular. In a few cases the SEC has permitted such a summary either in the front of the prospectus or in a press advertisement, but these experiments occurred sometime ago, and unfortunately did not become standard practice.

Utility Ratios

JAY SAMUEL HARTT, well-known consulting engineer of Chicago, has recently issued the 1947 edition of "Market Analysis of Common Stocks of Public Utility Companies and Miscellaneous Statistical Data Pertaining Thereto." The booklet presents nearly 200 statistical items, ratios, and per share figures for 178 companies. Average ratios were presented for six groups of utilities, and some of the more interesting of these are selected and assembled in the accompanying table.

SELECTED UTILITY RATIOS

	91 *Elec. Cos.*	48 *Gas Cos.*	7 *Tel. Cos.*	7 *Water Cos.*	13 *Bus. Cos.*	12 *St. Ry. Cos.*
Ratio Gross Plant to Revenues	403%	373%	324%	823%	73%	241%
Ratio Depreciation Reserve to Gross Plant	22	27	35	17	43	32
Capital Ratios—Bonds	41	29	23	47	13*	39
Debentures, etc.	4	12	13	1	14	7
Total Debt	45	41	36	48	27	46
Preferred Stocks	16	9	-	10	8	15
Common Stock Equity	39	50	64	42	65	39
Revenues—Per Cent Electric	82	1	–	–	–	–
Gas	12	85	–	5	–	–
Transit	4	–	–	–	100	99
Telephone	–	–	100	–	–	–
Water	–	–	–	95	–	–
Miscellaneous or Unclassified	2	14	–	–	–	1
Maintenance—Ratio Expenditures to Plant	1.8	1.3	5.9	.7	20.0	NA
Depreciation—Ratio Expenditures to Plant	2.3	2.8	3.6	1.0	6.6	NA
Maintenance, Depreciation, and Amortization—Per Cent of Revenues	17	15	31	13	21	23
Taxes—Ratio to Revenues	19	13	11	24	18	8
Gross Income—Per Cent of Revenues	21	20	12	34	14	9
Fixed Charges—Number Times Earned	3.6	5.4	3.9	2.8	5.1	1.8
Fixed Charges and Preferred Dividends—Number Times Earned	2.4	3.9	3.9	2.3	4.6	1.4
Gross Income—Ratio to Net Plant	6.7	7.3	5.8	5.0	33.7	5.5
Balance for Common—Per Cent Gross Income	58	74	74	57	78	27
Common Dividends—Per Cent of Balance Available	64	58	89	65	47	71
Common Stock—Price-earnings Ratio	12.7	12.0	18.3	14.5	5.0	8.5
Yield	5.0	4.8	4.9	4.5	9.5	8.4

* Includes 11 per cent minority interest.
NA—Not available.

What the State Commissioners Are Thinking About

Excerpts and digests from the opinions expressed in reports and addresses at the annual convention of the National Association of Railroad and Utilities Commissioners in Boston, Massachusetts, from July 14th to July 17th, 1947.

On Federal-state Regulatory Relations

"DURING the intervening period since our 1946 convention, our association has been engaged in a 3-front battle to preserve state regulatory jurisdiction in the local field traditionally occupied by the states. On one front, this battle has taken place before Federal and state commissions, in proceedings directly involving the jurisdiction of the states. On another front, this battle has been waged in the courts, both state and Federal. On the third front, our association has taken its problems to Congress and has sought legislation defining and preserving what we believe to be proper state jurisdiction. . . .

"Casting our eyes now to the future, I think all will agree that the regulatory commissions have an interesting and active year ahead. The postwar adjustments in the nation's economy are far from settled. Major wage and price shifts are still in the offing; sporadic but far-reaching work stoppages are likely to be experienced; critical material shortages are yet with us. These economic factors will have a direct bearing upon the adequacy, and manner of rendering utility and transportation service, and the cost of such service to the users. In such an economic climate there can be no dearth of regulatory problems. Many of them will loom large and call for urgent action.

"Contacts with various commissions indicate a tremendous volume of business in all details."

—DUANE T. SWANSON,
Retiring president, National Association of Railroad and Utilities Commissioners.

On Ratio of Stocks to Bonds

"IS all this talk about balanced ratios only academic as far as the state commissions are concerned? Some people have the impression that, with bond money so cheap, it is foolish to think of issuing common stock securities and that the interests of consumers require a debt ratio as high, or almost as high, as the market will absorb. Along with most, if not all, of the state commissions, we at the SEC do not agree with this line of thinking. . . .

"Now, by financial strength I do not mean that every utility should strive for a 100 per cent common equity. But each company should have sufficient equity to insure it full liberty, capitalization-wise, in additional financing and to permit it to face contingencies with reasonable assurance. The emphasis, in fact, should be on overstrengthening the financial structure in terms of today's markets in order to cope with the vicissitudes and demands of tomorrow.

"These observations apply with equal, if not greater, force to operating companies remaining under holding company control. Unless total system capitalization, including that of the holding company, follows the principles I have been describing, the operating subsidiaries will inevitably suffer higher costs of raising capital and will incur all other detriments of a poor capital structure."

—RICHARD B. MCENTIRE,
Member, Securities and Exchange Commission.

On the Miller Bills

"THE amendments [to the Miller bills] to §§ 8 and 23 are apparently designed:

"(1) To set aside the present broad definition of the term 'navigable waters,' as established in the New River Case, U. S. *v.* Appalachian Electric Power Co. 311 US 377, 410, and other decisions, so that dams built only in streams 'generally and commonly used for commerce of a substantial character' or which 'have a reasonable probability of being so used either in their natural condition or by then proposed improvements, the estimated cost of which is reasonably commensurate with the commercial benefits to be derived therefrom . . .' would be subject to FPC licensing control.

"(2) To expressly exempt from the license requirements, projects constructed under any permit or valid existing right of way granted 'prior to June 10, 1920,' the effective date of Part I of the act. This amendment would operate to overcome the court decision in Wisconsin Public Service Corp. *v.* FPC, 147 F(2d) 743, cert. denied, 325 US 880; Niagara Falls Power Co. *v.* FPC, 137 F(2d) 787, 791, cert. denied, 320 US 792, rehearing denied, 320 US 815; Pennsylvania Water & Power Co. *v.* FPC, 123 F(2d) 155, 163, cert. denied, 315 US 806; and In the Matter of Bellows Falls Hydro-Electric Corp. 2 FPC 380, 37 PUR(NS) 257, 262, holding that state permits or licenses, even when granted prior to June 10, 1920, do not exempt a company from the requirement that it obtain a FPC license.

"(3) In the case of persons not engaged in the development of electric power for sale thereof at wholesale in interstate commerce, to limit the authority of the Federal Power Commission to the prescription of 'lawful requirements . . . with respect to navigation or the effect of any such dam or other works on navigation.'"

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

On Bills Amending the Natural Gas Act

"COMPANION bills to amend the Natural Gas Act were introduced in both houses of Congress in February of this year. These are: HR 2185 by Congressman Rizley of Oklahoma, HR 2235 by Congressman Carson of Ohio, HR 2292 by Congressman Davis of Tennessee, and S 734, introduced jointly by Senators Ferguson of Michigan and Moore of Oklahoma. The bills are sponsored by the Independent Natural Gas Association. The salient features of these bills were summarized in the general solicitor's Bulletin 54-1947, as follows:

"This bill would amend the Natural Gas Act:

"'(1) To make it clear that the exclusion of "production and gathering" from FPC jurisdiction extends to all sales by producers and gatherers, except sales made after transportation in interstate commerce in a trunk line of a natural gas company.

"'(2) To exclude altogether from FPC jurisdiction every company the properties of which are wholly within one state, which sells only within such state, and does not transport gas moving beyond the state.

"'(3) To require the FPC to exclude natural gas production facilities from the rate base, in rate cases, and to allow as operating cost a "fair field price" for gas produced from such facilities, in lieu of a fair return on the original cost of the excluded facilities, except as to companies which request use of the original cost method.

"'(4) To require changes in procedure designed to expedite commission action on applications for certificates.

"'(5) To prevent the FPC from controlling the "end use" of natural gas.'"

"While the bill would terminate existing FPC jurisdiction over sales in interstate commerce of many companies, it contains no lan-

guage designed to assure that such sales shall be subject to state regulation."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

"THERE is also some question as to whether the [Rizley] bill would not be construed to exempt, from Federal regulation, certain pipe-line company operations which cannot, as a practical matter, be effectively regulated by the states, thus leaving such operations wholly unregulated. The bill makes the jurisdiction of the Federal Power Commission over sales dependent upon the extent of its jurisdiction over transportation. Under the definition of 'sale' in the paragraph numbered (12) in § 4, the commission will be prevented from regulating any sale of natural gas in interstate commerce except 'after transportation . . . subject to the jurisdiction of the commission'; and by the definition of 'transportation,' in the paragraph numbered (12) in said § 4, the commission's jurisdiction over transportation will extend only to the movement of gas in interstate commerce through the 'trunk transmission facilities' of a natural gas company, which begin at the point of reception from a producer or gatherer 'and *extend therefrom* to the point or points . . . at which such natural gas moves . . . *into the local distribution or trunk transmission facilities*' of the distributing company.

"This definition of 'transportation,' as it stands in the bill, taken literally, would seem to deny Federal Power Commission jurisdiction over transportation by any company not owning transmission facilities which *begin* where production and gathering end and *extend to* the point of sale to the distributing company. If it should be possible to construe the definition as applying to transportation by a company selling to the distributing company, without regard to the point of beginning of its facilities, the definition would still clearly exclude all sales prior to the sale to the distributing company, since there is no language in the act conferring jurisdiction over transportation by a company whose facilities do not 'extend to' those of the distributing company.

"The exclusion of these prior sales from the jurisdiction of the Federal Power Commission would seem to leave the public without adequate commission protection in the matter of rates."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

On Soundness of Utility Investment

"BY and large . . . the electric utility industry is entering this period of growth in a strong position. The industry furnishes an essential service and can contemplate continued growth for many years. Its improved financial condition commends its securities to investors and it appears that equity financing will be possible over a greater part of the business cycle than was true when tremendous leverage characterized many utility common stocks. Moreover, to an increasing extent as the § 11 program rolls along, electric utility operating companies are ceasing to be captive to holding companies running them by remote control; the ability of such operating companies to raise equity capital is not linked to the ability of the holding companies to supply it—they are now free to tap the capital markets of the entire nation. The relatively few holding company systems which will remain will be those controlling integrated properties, and they will possess such simplified capital structures that their own equity security issues should be attractive to investors.

"We must not assume, however, that the present condition of the industry is such that we in the regulatory commissions can take for granted the continued financial health of this industry.

"The great danger, I think, is that all of us—the industry, regulatory authorities, and buyers of utility securities—become complacent on this subject and permit, almost unnoticed, a gradual erosion of the ground gained in the last ten years."

—RICHARD B. MCENTIRE, *Member, Securities and Exchange Commission.*

On Bills to Amend Part II of the Federal Power Act

"THIS association has, since 1943, favored enactment of a bill to amend Part II of the Federal Power Act, for the purpose of overcoming the adverse jurisdictional ruling in the Jersey Central Case, 319 US 61, and to settle definitely the jurisdictional issues involved in the Connecticut Light & Power Co. Case, 324 US 315.

"The matter was last discussed in § D of our 1946 report. The association reaffirmed its views on the subject by resolution adopted at the Los Angeles convention last November (1946 NARUC Proceedings, page 226)."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

"DESPITE these differences between HR 2972 and the NARUC proposal, we believe that the association should take action supporting the Miller Bill. There is some possibility that the bill may be so broad in some respects as to exempt, from Federal regulation, utility operations which are presently, due to the silence of Congress, beyond the constitutional reach of the states. Accordingly, in expressing its support of HR 2972, it is our recommendation that the association attempt to secure an amendment which will insure that there will be no hiatus between Federal regulation and state regulation. The executive committee adopted such a resolution at St. Louis on May 12, 1947."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

On Low Cost of Electricity

"REGULATORY commissions can justly take modest pride in the part they have played in bringing about this happy condition:

"While prices for all necessities of life are sky high, electricity, which is a commodity, seems to have been able, notwithstanding increases in labor, material, and taxes that affect that industry as well as others, to maintain rates at an all-time low.

"It is to the credit of management that an industry which is held up to the highest degree of operating efficiency by public regulation, because of the nature of the industry in relation to public safety, should be able to keep prices down, when most other industries are taking advantage of the situation to impose upon the public."

—WADE O. MARTIN, *Member, Louisiana Public Service Commission.*

On Federal Air Legislation

"BUT, while the [McCarran] bill is thus apparently intended to limit Federal economic regulation to interstate air transportation, the definitions extend that term to include carriage 'in interstate commerce between places in the same state, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.' (Section 101(25).) This goes beyond the . . . language of the present act . . ."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

"THE [NARUC] executive committee, at its meeting in St. Louis on May 12th, adopted a resolution approving amendments to HR 2337 designed to preserve state jurisdiction over intrastate air commerce. This committee recommends that the association adopt resolutions relating to these three aviation bills similar to those approved by the executive committee at its February and May meetings as noted above."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

On Regulated Competition

"THE term 'regulated competition' should mean but one thing: to regulate the service, rates, and practices of such carriers and to permit reasonable competition to prevail in the hope that stability will flow therefrom. No commission can successfully prescribe rates greater than the traffic would bear, or service that reasonably could not be furnished without out-of-pocket loss to the carrier, nor prevent carriers from entering into arrangements to divert traffic from one to the other when such practice is found necessary for their very existence. Even the courts cannot require the impossible.

"The very essence of sound transportation is competition but not destructive competition. Healthy competition does, beyond a shadow of doubt, improve service and facilities, and holds rates within reasonable bounds. The very principle of rate making under regulation is predicated upon competitive factors. . . . This contemplates generally, with certain exceptions, of course, a minimum basis representing the out-of-pocket cost and a maximum basis of what the traffic will bear. Competition readily works within these bounds. It has been stated in various congressional reports and elsewhere, that less than 10 per cent of the rates on file with the Interstate Commerce Commission have been subject to judicial review. This would indicate that competitive forces have exercised a salutary influence through the voluntary establishment of reasonable rates and charges by the carriers—obviating the necessity for the use of set formulae propounded by regulatory bodies for the prescription of lawful rates."

—LYNN H. ASHLEY, *Chairman, Wisconsin Public Service Commission.*

On the Federal Practitioners' Bill

"ON March 20, 1947, Congressman Gwynne of Iowa introduced HR 2657—80th Congress, entitled 'A bill to protect the public with respect to practitioners before administrative agencies.' The bill was prepared by the American Bar Association and it is understood that a companion bill will be introduced in the Senate. The bill would forbid practice before any Federal agency without credentials or except as authorized under the bill.

"The term 'practice' would not include appearance as a witness; appearance by an individual on his own behalf; by a partner on behalf of the partnership; by an officer or employee of any state, local government, or agency thereof or of the United States on behalf of such government or agency; or (if permitted by agency rule in any proceeding not conducted pursuant to §§ 7 or 8 of the Administrative Procedure Act) by an officer of a corporation or other organization on its behalf.

"It is apparent that the primary purpose of the bill is to prevent nonlawyers from appearing in a representative capacity before the Interstate Commerce Commission and other Federal agencies. It has been the experience of many state commissioners that, in rate cases and other types of proceedings calling for technical transportation knowledge, nonlawyer practitioners are as capable, and oftentimes more capable, of properly representing the interest of their clients and assisting the regulatory commission, as are lawyers."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

On Relative Freedom of Enterprise

"GOING beyond common law which has its precepts in humanity and equity, let's look at the extent of freedom enjoyed by private enterprise. Statutory laws now prevent industry from unlimited freedom in the employment of labor. They bind industry with regard to discrimination, wages and hours, health and safety, old age, child labor, and other matters tending to stabilize and improve labor's position. Industry is restrained from abusive practices in production by enactment of pure food laws, grade labeling laws, and others placing minimum quality standards on manufactured articles to protect the consuming public. Fair trade practice laws and anti-monopoly laws narrow the pricing field to certain minimums and maximums in consonance with such laws. Investors are protected from rampant speculation by enactment of security laws. In the field of agriculture, which has sometimes been described as our last frontier in the realm of free enterprise, laws are in effect tending to guarantee reasonable returns and maintenance of plant to a reasonably productive basis.

"What then constitutes free enterprise? The freedom of enterprise enjoyed today is less than it was ten years ago. Ten years ago it was less than the decade before that. And so on back to the inception of civilization, when man in the primitive stage was bound by natural laws which, if disobeyed, exacted certain penalties."

—LYNN H. ASHLEY, *Chairman, Wisconsin Public Service Commission.*

On Separation of Telephone Costs and Revenues

"THERE is one point regarding telephone separations. It should be kept clearly in mind. The feeling has been expressed by many that the associated companies are not sharing sufficiently in the division of interstate revenues, and, while it is not our purpose at the present time to review the current divisions of revenues contracts, it should be brought out that the revenues so divided accrue from interstate service and are subject to the jurisdiction of the Federal Communications Commission irrespective of whether they are received by the Long Lines Department of the American Telephone and Telegraph Company or by the associated companies for rendering interstate service.

"Intrastate earnings of the associated companies, therefore, are not affected by the division of interstate revenues. On the other hand, intrastate and interstate earnings are directly affected by cost allocations made between these two classes. For example, a revision in separation methods which results in transferring additional investment or operating expenses from intrastate to interstate will not only reduce the over-all interstate net earnings, but will also increase the net earnings of the associated companies which are derived from intrastate operations. The results of both the division of revenue studies and separation studies submitted in connection with recent state rate proceedings indicated that the interstate operations have been much more profitable than the intrastate operations. The reasonableness of these results has been questioned. . . .

"The subcommittee [of the Joint FCC-

NARUC Staff Committee] met in New York beginning on February 25, 1947, to study this problem intensively. The committee's report was issued on April 28, 1947. Based upon all data available, the committee concluded that cost allocations other than on the 'actual use' basis should not be recommended. This conclusion was reached after consideration of all suggestions relative to alternative methods and after thorough review of methods employed by utilities and regulatory bodies in other fields. However, consideration of the 'actual use' methods employed in allocating various costs indicated that in many respects a proper share of telephone costs was not being allocated to interstate operations under the methods then effective.

"The results of the committee study are incorporated in a report comprising 172 pages, copies of which have been sent to each state commission. It is probably one of the most extensive reports that has ever been prepared by a committee of this association and represents a critical review and analysis of every phase of telephone separation procedures."

—REPORT *of Special Committee on Telephone Regulatory Problems, Matt L. McWhorter of Georgia, chairman.*

"THE changes in separation procedures, which have been agreed to by Bell system representatives, provide for allocating a greater proportion of the telephone operating costs to interstate. Based upon 1946 operations, their application would have resulted in assigning $6,045,000 additional Bell system investment and $17,267,000 additional expense to interstate operations as compared with the cost allocation methods developed in the 1941-42 study. In addition, the adoption of the proposed procedures will result in allocating $800,000 more revenue to intrastate operations annually. We refer you to the subcommittee's report for the details of the revisions recommended and their effect on telephone separation."

—REPORT *of Special Committee on Telephone Regulatory Problems, Matt L. McWhorter of Georgia, chairman.*

On Telephone Rates

"I KNOW of no means by which a telephone business can exist that is different from that by which any other business exists. . . . The determination of what such warnings must be is a very practical problem in economics requiring business judgment of the highest order and cannot be ascertained on the basis of any legalistic formula. Today our commissions are free from such formulae but we are bound in good conscience and by practical economics to fix rates which will provide a return adequate to attract capital at the time it is needed, to maintain the credit of the business, and thus to give assurance of the continuity and quality of the service. . . .

"From my observations the temper of the people today is such that if it were a matter of alternatives they would overwhelmingly prefer good service at good and fair rates to poor service at low rates."

—HARRY M. MILLER,
Chairman, Ohio Public Utilities Commission.

On Practice before Commissions

"THE committee has contacted every member of the National Association of Railroad and Utilities Commissioners in regard to the laws in the various states pertaining to qualifications to practice before that body. In receiving replies we find that 27 of the regulatory bodies have no requirements as to qualifications to practice, that 11 permit only lawyers to practice before the commissions, that 3 require the parties practicing before such bodies to have special training in law and regulatory matters before they are given permission to practice, and that 1 commission reserves the right to designate the party who is to practice before its regulatory body. So our committee, after making this survey, finds that at this time it could make no recommendation so far as adopting uniform qualifications for parties practicing before regulatory bodies."

—REPORT *of Committee on Regulatory Procedures, J. C. Darby of South Carolina, chairman.*

On Restraint in Regulation

"IT would appear that all through the evolution of both regulation and free enterprise the trend has been to give the public the greatest benefits with the minimum of governmental interference. This is the ideal toward which we are all working. The more that administrative agencies become aggressive in eliminating the exercise of managerial discretion by the individuals under their jurisdiction, the greater will become the pressure by such

individuals to obtain through legislative action a curtailment of the authority of the administrative bodies. . . .

"In providing such regulation administrative bodies must exercise substantial discretion in the administration of the law. The only restraint is that the decisions be based upon substantial evidence material to the general rules of conduct prescribed by the statutes and that they not be arbitrary or capricious. All transportation agencies exercise the right to managerial discretion, the only restraint being the right of the regulatory bodies, after investigation, to limit the exercise of such discretion whenever necessary for the proper protection of the public interest. This is true not only of rates but of service, facilities, and operating authority."

—LYNN H. ASHLEY,
Chairman, Wisconsin Public Service Commission.

On Regulatory Procedure

"So far as recommendations on regulatory procedure, this committee has been working on what it considers a good uniform law; if it could be adopted and all regulatory bodies have their legislature enact same, we think that it would be a fine procedure of regulation, which in effect orders the utility before the regulatory body. Then after hearing and an order has been issued, such utility could apply for rehearing. The commission can either grant or deny a rehearing. If it denies a rehearing, then such utility could appeal to the court. If the court sustains the utility, then the order becomes effective and retroactive as of the date of commission's order. This in substance is what the bill contemplates. This, we think, would be a safeguard for the regulatory bodies and, also, utilities being regulated by such bodies. Each has its day in court, so there will be no question as to the legality of such action. This committee is not recommending at this time, or at this convention, that such a law be adopted, but will wait until each commission, or regulatory body, who is a member of this association, has carried said recommended law home and studied same for a period of one year or more, if the association so desires.

"This committee feels that the problem of regulatory procedure is one of very great consequence and difficulty, and does not claim to have been able, even in this report, to make a final and comprehensive recommendation of the problem. It is earnestly requesting that each member of the National Association of Railroad and Utilities Commissioners study this proposed recommended procedure and give this committee the benefit of its final analysis on same so that it may be able to adopt something which may be found general in applicability."

—REPORT *of Committee on Regulatory Procedure, J. C. Darby of South Carolina, chairman.*

On Growth of the Electric Industry

"THE industry's construction program does not appear to be built on roseate Mississippi bubble dreams, but is the response to equally unprecedented demands for power. The war resulted in the development of many new industrial uses of electric power; these apparently are now being exploited and, in general, the electrification of industry appears to be going on at an accelerated pace. The national average residential use of electric power has doubled in the past twelve years, and shows no signs of stopping. But despite all of this rationalization, the increase in demand seems almost to defy explanation. Veteran utility men have told me that it has so far exceeded any of their predictions that they are somewhat baffled and bewildered.

"How much more the demand will increase is a matter of conjecture. The development of the famed 'heat pump' for domestic heating and air conditioning could accelerate the growth substantially."

—RICHARD B. MCENTIRE,
Member, Securities and Exchange Commission.

On State Commission Interest in Congressional Bills

"WE urge that each state commissioner give close attention to all matters of Federal legislation, as reported in the bulletin service of our Washington office, and particularly to those matters concerning which the association, by resolution, or the executive committee, or the president of the association, directs that action be taken on behalf of the association. Where the interest and policies of individual commissions are consonant with the position taken by the association on particular items of legislation, we recommend that such commissions take prompt and vigorous steps to support the association view. This can be done

most effectively by communicating with the commission's representatives in Congress, conveying to them the state commission's view on such legislation, backed up by a statement of facts and arguments supporting such view, and making particular reference to the importance of the matter to the individual state. The state commissions can also render effective support by communicating their views to the chairman of congressional committees before which such legislation is pending, and by sending their own witnesses or authorizing the Washington office to represent them individually at congressional hearings."

—REPORT *of Committee on Legislation, H. Lester Hooker of Virginia, chairman.*

On Unregulated Competition

"MANY communities in the United States today are entirely devoid of public transportation facilities and have become what we have called ghost towns because of too much competition in transportation. Losing a community is one of the nation's tragedies. Besides the business losses, it entails a great deal of sentimental and moral loss. Next to the home, the community (particularly the small community) is the greatest social and moral stabilizing force we have. It has within its power to create substantial moral and social backgrounds and patterns that are of great benefit to the public as a whole. Can we afford to weigh merely the momentary monetary effects of competition when passing upon the merits of an application? I don't believe so.

"In conclusion may I make this observation? The line of demarcation between healthy and ruinous competition is seldom clear or distinct.

"In the final analysis it must be determined by the exercise of informed and experienced discretion in the light of evidence of all relevant facts."

—LYNN H. ASHLEY, *Chairman, Wisconsin Public Service Commission.*

On Uniform Engineering Standards

"THE projects or fields of study which the committee canvass disclosed were most greatly desired included the following:

"1. A review of the organization and duties of the engineering departments of regulatory commissions.

"2. A study of the standards of utility service to be used as a guide by the different state commissions in setting up or in revising existing standards of service. To include separate guides for electric, gas, telephone, water, and mass transportation services.

"3. A study of the engineering data and statistics needed, useful, and now required in annual and other reports by utilities to regulatory commissions.

"4. A study of engineering problems in rate making to include appropriate power factor adjustments; fuel cost adjustments; adjustments for off-peak and interruptible loads; escalator clauses, cost allocations between classes of service; and weights to be given distance factor and load density in zone rates."

—REPORT *of Committee on Engineering, George P. Steinmetz of Wisconsin, chairman.*

On the New Jersey Rate Plan

"'THE New Jersey Rate Adjustment Plan' as described provides for an annual adjustment of utility rates on an agreed-upon basis resting largely on the market value of the securities of the utility in question. Discussion indicated the plan would be most successful in dealing with a company whose rate of earnings was increasing. Important features of the plan include an annual customer credit whenever earnings warrant such credit and an incentive provision to the utility to reduce costs."

—REPORT *of Committee on Engineering, George P. Steinmetz of Wisconsin, chairman.*

On Public Power and Taxes

"THE [engineers' conference] paper on 'Public Power and Taxes' outlines the growth of public power from 5 per cent of the total in 1920 to over 19 per cent in 1946 and points out that this trend will probably continue, due, among other causes, to the fact that approximately 19.4 per cent of the operating revenue of privately owned utilities in

1946 was required for taxes. This tax was made up of 11.6 per cent Federal and 7.8 per cent state and local. The tax bill of the privately owned utilities exceeded their payroll and each of the other major expense classifications. The paper points out that public power projects pay practically no Federal taxes and Federal projects except TVA pay no state or local taxes. In addition various types of bonds issued to finance public power projects are tax exempt. The author points out that the unequal distribution of the tax burden discriminates between citizen taxpayers favoring those using public power at the expense of all others. The author concluded that the private power industry should continue to pay its fair share of the tax burden but that fair play requires that public power be required to carry a like share of the tax burden."

—REPORT *of Committee on Engineering, George P. Steinmetz of Wisconsin, chairman.*

On Telephone Recorders

"THE FCC invited all state telephone regulatory commissions, among others, to participate in a public engineering conference which was held at the commission's offices in Washington, D. C., on April 29, 1947, for the purpose of considering various engineering questions presented by the commission's conclusions in its final report regarding the use and operation of telephone recording devices in connection with interstate and foreign message toll telephone service In the Matter of the Use of Recording Devices in Connection with Telephone Service, FCC, Docket No. 6787. Members of the committee on engineering of the NARUC participated in the conference and the public utility regulatory commissions of Connecticut, Nebraska, Pennsylvania, Wisconsin, and the District of Columbia were also represented."

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On Holding Company Divestments

"IN carrying out the mandate of § 11 to achieve the integration and corporate simplification of holding company systems, the SEC, as is well known, has found it necessary to require the divestment from control of holding companies of large numbers of gas and electric utility properties, as well as water, ice, cold storage, heating, telephone, street railway, and other businesses. During the period from December 1, 1935, to March 31, 1947, 418 companies have been divested from the ownership of registered holding companies. These companies had total assets of $7,441,000,000 of which $5,101,000,000, or approximately 70 per cent, represented assets of 358 companies no longer subject to the Holding Company Act. In addition, 115 companies have sold part of their assets for a total consideration of $133,000,000, of which $117,000,000 are not now subject to the act.

"Moreover, as of March 31, 1947, 109 companies, having total assets of $3,331,253,000, are subject to divestment orders and when such divestments have been effectuated a substantial proportion of these companies and properties will no longer be subject to the jurisdiction of the SEC under the Holding Company Act. Thus, it can be seen that the act is fulfilling its statutory purpose of eliminating holding company management and of restoring to the states control over their local operating companies."

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On Procedure for Separating Telephone Costs

"A JOINT NARUC-FCC committee developed a system of procedures in 1941 and 1942 which provides for allocating telephone operating expenses and investment among exchange, state toll, and interstate toll services on both the board-to-board and station-to-station bases of rate making. These procedures were based upon 'actual use' methods. At present, these procedures are used to ascertain the investment and expenses assignable to intrastate operations for the purpose of determining the net earnings and rate of return of intrastate service within any particular state, and for determining the investment and operating expenses assignable to interstate operations by the associated companies under the division of revenues contracts between the associated companies and the Long Lines Department of the American Telephone and Telegraph Company. Under the division of revenues contracts, approximate separations are currently applied from month to month, while

separation determinations for other purposes are generally made only at times when rates subject to state jurisdiction are under consideration.

"This problem of an equitable separation of telephone property, revenues, and expenses between state and interstate jurisdiction is one of prime interest to the various state commissions at the present time in light of changing conditions and increasing costs, and has been the subject of intensive study and investigation by staff experts of state commissions coöperatively with representatives of the staff of the Federal Communications Commission. As you know, the Federal commission has jurisdiction over interstate rates, and since most telephone facilities are used in common for both state and interstate services, some equitable method must be employed in determining the proportion of total telephone costs within a state that are subject to the state and to the Federal jurisdiction. Naturally if justice is to be done, a uniform method of cost allocation should be employed."

—REPORT *of Special Committee on Telephone Regulatory Problems, Matt L. McWhorter of Georgia, chairman.*

On FPC-state Coöperation

"THE [Federal Power] commission, in coöperation with the National Association of Railroad and Utilities Commissioners, is making a survey of state commission jurisdiction and regulation. The questionnaire form used in this survey was designed in coöperation with the association, and a report, which will ultimately be issued on 'state commission jurisdiction and regulation,' will be jointly edited by members of the staff of this commission and the NARUC.

"The Federal Power Commission is continuing its practice of notifying the interested state commissions, in conformity with the plan of coöperative procedure, of all proceedings before it. Copies of all orders entered by the commission are forwarded to the interested state commissions and copies of licenses, preliminary permits, and amendments thereof are likewise forwarded to the state regulatory authorities."

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On FCC-state Telephone Rate Coöperation

"MEMBERS of the Federal Communications Commission staff are coöperating with the New Jersey Board of Public Utility Commissioners and the Maryland Public Service Commission and have held numerous conferences with, and furnished considerable information to, other state and local regulatory bodies in connection with the recent wave of telephone rate proceedings. More than twenty state commissions have been furnished by the FCC with requested information on telephone rates."

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On Depreciation Matters

"DEPRECIATION information has been furnished by the FCC to the states of Kansas and Virginia for their use in connection with tax assessments on telephone property. Staff members of the FCC are also working with the New Jersey commission in connection with proposed changes in depreciation rates of the New Jersey Bell Telephone Company, and with a number of southeastern commissions concerning depreciation rates of Southern Bell Telephone & Telegraph Company."

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On Airport Shortage

"CERTIFICATION of carriers has far outstripped airport facilities in the domestic field. Less than two-thirds of 536 United States communities authorized to receive scheduled air service, actually are getting it. The latest survey (by *Aviation News*) showed that 225 places which the Civil Aeronautics Board put on the air map since hostilities ended still are without service largely because airport facilities are inadequate. However, 100 more com-

munities were receiving service at the end of the first quarter of 1947 than were receiving air-carrier service at the start of 1946.

"The Federal Aid Airport Bill creating a 7-year program for a billion-dollar development of airport facilities in the United States, nearly half of which is to be contributed by the Federal government, became law March 13, 1946.

"The first $45,000,000 of Federal aid for the 1946 fiscal year is now available, but due to delays in planning and in matching Federal funds, on the part of local communities, only $2,800,000 of this 1946 appropriation has been obligated."

—REPORT *of Committee on Progress in the Regulation of Transportation Agencies, Jeff A. Robertson of Kansas, chairman.*

On Benefits of FPC Coöperation

"IN connection with these [coöperative] proceedings, it is interesting to note the comments of Chairman McBrearty, of the Michigan commission, who sat jointly with the commission's presiding examiner at some of the hearings. Chairman McBrearty writes: 'Our commission and our staff, with the Federal Power Commission and their staff, constantly conferred in an attempt to work out the various problems that were involved in the applications . . . My experience has convinced me that it is not only possible for a state commission and a Federal commission to work together agreeably, but that such coöperation is of immense mutual benefit to both staffs and commissions. . . . The type of coöperation so recently given our commission should be striven for in every instance where state and Federal commissions meet . . .'"

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On Service Emergency Coöperation

"A CONFERENCE was held in Chicago, Illinois, early in December, 1946, at which the interested state commissions participated, with Panhandle Eastern and its utility customers, for the purpose of obtaining an agreement among the interested parties to the emergency service rules to be in effect for the Panhandle system during last winter. As a result of the agreement reached at this conference, Panhandle filed, and the commission permitted to become effective, the emergency service rules which were in effect last winter. It is recognized that the coöperative effort of all the interested parties prevented a serious supply emergency on the Panhandle system and on the systems of its utility customers last winter."

—REPORT *of Committee on Coöperation between State and Federal Commissions, Nat B. Knight, Jr., of Louisiana, chairman.*

On Air-carrier Regulation

"ONLY 13 states have issued certificates of convenience and necessity to air carriers—Alabama, Arkansas, Colorado, Illinois, Kentucky, Maryland, Nevada, New Mexico, North Dakota, Oklahoma, Pennsylvania, Virginia, and Wyoming. Five other states have statutory power to issue such certificates—Nebraska, Rhode Island, South Dakota, Tennessee, and Vermont. Nine other states are believed to have authority to issue certificates under provisions of their utility laws or their Constitution.

"Certain of these states named merely require the air carrier to record the Federal certificate with the state commission and file copies of its tariff. All of the foregoing 13 states which have issued certificates of convenience and necessity except Oklahoma, and in addition, California, Massachusetts, Nebraska, Utah, and Wisconsin, or a total of 16 states, have statutory authority to regulate rates of intrastate air carriers. But of these, it appears that only Kentucky has so far exercised its rate-making power."

—REPORT *of Committee on Progress in the Regulation of Transportation Agencies, Jeff A. Robertson of Kansas, chairman.*

On Midwest Commissioners' Conference

"NOTICE should be made of the formation of a Midwest Conference of State Utilities Commissions, effected on May 9th at St. Paul, Minnesota. States participating are Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

The purpose of the conferance is to provide for consultation and coöperation relative to matters of common interest among the members. It will hold meetings on call as matters of common interest arise that appear to justify coöperative consideration. Its recommendations will be advisory and not binding on member commissions. Transportation problems, doubtless, will from time to time be considered."

—REPORT *of Committee on Progress in the Regulation of Transportation Agencies, Jeff A. Robertson of Kansas, chairman.*

On Promotion of Safety in Transportation

"SAFETY is still vitally important, particularly at this time when the nation's economic condition is so dependent upon transportation and we can ill afford any loss in man power or machinery which is so greatly needed at this time. Great strides have been made by industry, national and state governments, as well as great fraternal organizations. Outstanding in this respect is the Benevolent and Protective Order of Elks, which organization fostered and put forth special efforts in 'safety promotion,' better-driving contests, etc. The various civic clubs such as Rotary, Kiwanis, Lions, and many other clubs have endorsed and made safety their outstanding objective even to the extent oftentimes of considering it a project. Schools and churches have been talking and practicing safety. Labor groups, Bureau of Mines, forestry organizations as well as farmers clubs and industries, particularly the railroads, have put on vigorous and effective campaigns in the interest of safety and the preservation of life, which they know pays off in dividends in the aggregate not only in the conservation of time and money, but in the prevention of pain and the loss of life. The National Congress of Parents and Teachers, one of the largest organizations, with a membership of approximately 4,000,000 members, has carried out an effective safety campaign.

"Regardless of all the care and caution exercised, accidents happen and continue to happen and the regretable part is that they will continue to happen. We must reconcile ourselves to that fact. We do not admit accidents are necessary or are a part of the performance of operation of transportation vehicles, neither do we admit they are all entirely avoidable. We do contend, however, that many are caused by mechanical failures, an instant of neglect, carelessness, human frailty, or a moment of hesitation by the operator....

"A few pertinent observations might well be considered in connection with automobile and truck accidents. Two out of every three involved mistakes by drivers. Exceeding the speed limits seems to head the list by a large margin.

"Some will lose because they are willing to take a chance, no matter how great the odds. Others will lose because they have not learned the game well enough to play it safely. Certain studies and reports disclose that most automobile, bus, and truck accidents do not occur on rainy, snowy, or foggy days, but in clear weather, and not on wet, snowy, or icy highways, but on dry pavements. The answer is obvious, of course; when the weather is bad and the roads are wet and slippery driving seems to be dangerous. There is a tendency for us to slow down and redouble our alertness. As a result, accidents are relatively few. But when the weather is clear and the pavement dry, it seems to be conducive to speed and, of course, it is speed and chance-taking that cause many accidents and deaths."

—REPORT *of Committee on Safety of Operations of Transportation Agencies, C. L. Doherty of South Dakota, chairman.*

On the Purpose of Utility Financing

"THE data on security issues for the period since the beginning of the depression have indicated that the major purpose of public utility financing has been refunding. Furthermore, after Pearl Harbor, the amount of new capital raised by public utilities fell below the small normal levels. During the year 1943, the new capital raised by public financing reached a new low, being substantially half of the previous low mark of $34,221,000 made in 1933. The year 1944, although reporting an increase over 1943, was the third lowest year of record with $42,711,000. The volume of new financing for 1945, although over twice that for 1944, was still one-third below the 10-year average. The new capital raised for the first six months of 1946 was below that for the first six months of 1945, by about 10 per cent, indicating a continuance of the situation. However, during the latter half of 1946, the situation changed substantially. In the ten months since June 30, 1946, new capital raised by public utilities through new financing exceeded the billion-dollar level, more than the total for the ten years 1936 through 1945....

"With respect to public utility bonds, it is a fact that companies that had refinanced their bonds during the 1936 to 1939 period at lower interest rates were again able to refinance their bonds at later levels with a substantial reduction in interest costs. The reduction would

have been much smaller had it not been that the saving on excess profits tax in a refunding operation absorbs most of the premiums required to call debt (which premiums range up to 5 per cent of the principal amount). It is apparent from a review of the situation that the public utilities in general are still able to obtain money at the low costs that prevailed in the recent past. There has been some decline in bond values with a related increase in bond yields during the several months to date (May 31, 1947) but the amount is such that it would appear that the present cost of debt money is near the lowest in history."

—REPORT *of Committee on Corporate Finance, William Parrillo of Illinois, chairman.*

On Utility Net Income

"IT is noteworthy that although the three years 1944, 1943, and 1942 represent years during which the amount of electricity sold was substantially increased above that prevailing in any preceding year, the net income for these years is substantially lower than that of the preceding three years and lower than the 1930 results. The 1945 results indicated some improvement in this respect with a more substantial increase for 1946. The 1946 net income was the highest on record, exceeding the previous record made in 1930 by about 6⅔ per cent or one-fifteenth. . . . The profit result is primarily dependent upon the electric operating income which, in turn, since operating revenues have increased, means that operating revenue deductions have increased faster than the revenue itself."

—REPORT *of Committee on Corporate Finance, William Parrillo of Illinois, chairman.*

On Volume of Transit Service

"IT is to be noted that the number of passengers carried by trolley bus and motorbus vehicles has shown a continuous increase with only a few irregularities since their inception. The number of passengers carried by off-surface electric railways holds its own.

"But the traffic on surface electric railways began to decline about 1923 and continued this decline somewhat irregularly to 1940. The recovery by 1944 in the number of passengers carried by surface electric railways was only 47 per cent of the loss sustained between 1923 and 1940 and a half-billion passengers have been lost between 1944 and 1946. The 1946 figure is only two-thirds of the 1923. Also, although the recovery of 3,084,000,000 passengers from 1940 to 1946 was substantial the growing motorbus traffic increased by 5,960,000,000, or 140 per cent. Of the increase of substantially 10,300,000,000 passengers for all types of local transportation between 1940 and 1946, the rubber tire vehicles, in spite of wartime restriction, accounted for more than 6,700,000,000, whereas the electric railways accounted for less than 3,600,000,000. Likewise, of the increase of 12,000,000,000 passengers between the depression low of 1933 and 1946 the rubber tire vehicles accounted for 9,300,000,000 and the steel rail vehicles only 2,700,000,000."

—REPORT *of Committee on Corporate Finance, William Parrillo of Illinois, chairman.*

On Transportation Rates

"THERE is currently in process a cumulative attempt on the part of all transportation agencies to obtain increased revenues consistent with increased costs of operation. Within the bounds of the Interstate Commerce Act and most state statutes this is a legitimate undertaking, but there is the danger of subjugation of the principle of competition in the field of transportation, which principle underlies all of the statutory approaches to the subject, in favor of what amounts at times to an inclination on the part of some carriers to charge shippers all that their traffic will bear under the present economic circumstances."

—REPORT *of Committee on Rates of Transportation Agencies, Agnes Mae Wilson of Missouri, chairman.*

On Traffic Increase

"TRAFFIC on the city and city-suburban lines has increased over the level of the previous year. Coupled with the shortage of busses was the even greater shortage of auto-

mobiles and this lack of competition, together with outmoded street traffic controls, prohibition of curb parking, and congestion at mid-business section parking lots and garages, helped to hold local riding to the wartime high. Whether the increased output in automobiles will substantially cut into this figure is conjectural as it seems likely that such an increase will further add to the parking problems and congestion in the shopping and business districts of the local communities."

—REPORT *of Committee on Service and Facilities of Transportation Agencies, Guy R. Johnson of Pennsylvania, chairman.*

"TRAFFIC on surface, subway, and elevated lines decreased only slightly in 1946 despite the wide-spoken predictions at the beginning of the year of a decline to pre-war totals.

"In 1946 the surface railway lines carried 9,027,000,000 passengers, subway and elevated lines 2,835,000,000 or a total of 11,862,000,000 passengers, which represents a 2.16 per cent decrease over the previous year."

—REPORT *of Committee on Service and Facilities of Transportation Agencies, Guy R. Johnson of Pennsylvania, chairman.*

On Switching Reserves on the Balance Sheet

"BRIEFLY summarized, the [utility] industry objected to the transfer of the caption and amount related to reserves applying to the plant accounts from the liability side of the balance sheet to the asset side of the balance sheet, and also presented numerous cases in which the utilities believed the report required too great detail or otherwise was burdensome. . . .

"The more important controversy relating to the presentation of reserves related to the plant account. The industry objected strongly to the deduction of these reserves from the assets to which they relate. The committee, however, despite the presentation on behalf of the industry, is still of the opinion that such reserves should be deducted. On the proposition that 'a depreciation reserve that reasonably approximates the reserve requirement should be deducted from the assets to which it relates in the presentation of the balance sheet,' the committee is unanimously in the affirmative. However, on the proposition that 'the depreciation reserve, regardless of the state of adequacy or inadequacy or the manner in which it is computed, should be deducted from the asset side of the balance sheet,' the vote stood 10 to 3 in the affirmative. As a result, the committee has decided to recommend to the association that the balance sheet schedules be drawn up in both fashions, leaving it to each state commission to decide which form it preferred to adopt."

—REPORT *of Committee on Statistics and Accounts, Fred Kleinman of Illinois, chairman.*

"WE are asking the convention to recommend to the membership of the association the adoption of the form of report as prepared by your committee with the reservation that each commission shall choose the balance sheet presentation it prefers. If this is done, it is believed that the state and Federal commissions of the association can adopt uniform reports so that the report can be prepared by a duplicating process. This will relieve the utilities of the burden of preparing several copies of the same report, which burden, since it involves the possibility of errors between the copies, is one that should be avoided. It is necessary to remember that in the first instance the adaptation of the reports required by the respective members of the association to a uniform report that can be prepared by a duplicating process was a suggestion of the industry."

—REPORT *of Committee on Statistics and Accounts, Fred Kleinman of Illinois, chairman.*

On New Gas Plant Accounts

"THE subject of the new types of plant and related changes in expense accounts is particularly important in the case of gas utilities. Although the origin of the problem antedates the preparation by this committee of the uniform system of accounts, recent trends have placed emphasis on several developments in the gas field. The accounting treatment of mixing gas, of reforming gas, and of propane or liquefied petroleum gas has been accentuated by an increase in number of companies and an increase in degree of use of these somewhat recent developments in the industry. It is felt that the development has now reached a stage that requires considered action on the part of the committee. A study is now in preparation, looking toward the development of plant accounts, maintenance accounts, and operating accounts to cover these expanded developments. It is believed that the progress has been sufficient to crystallize the accounting for these new developments and hence to warrant the promulgation of uniform accounting on the matters involved."

—REPORT *of Committee on Statistics and Accounts, Fred Kleinman of Illinois, chairman.*

On Rural Power Line Construction

"WITH the increasingly rapid expansion of electrification in rural areas, it is becoming very important that the contractors building these lines be acquainted with the safety regulations as instituted by each state. It has been found, in many instances, that extensions built by contractors are improperly guyed, with inadequate grounds, and improper clearances between the power lines and the local telephone systems. Where such construction work is conducted for the major utilities, the state of Oregon has always insisted that careful inspection be made by the companies to make certain that all of the safety requirements have been met before service is actually connected."

—REPORT *of Committee on Service and Facilities and Safety of Operation of Public Utilities, George H. Flagg of Oregon, chairman.*

Resolutions Adopted

"RESOLVED, that this association favors the enactment of HR 2973—80th Congress, amending Part I of the Federal Power Act, and

"Resolved Further, that the committee on legislation and the legal representatives of this association are authorized to appear on behalf of the association before any committee of Congress at any hearing which may be hereafter held upon said bill or upon any similar bill."

"RESOLVED, That this association reaffirms its position in favor of the enactment into law of the amendments to the Federal Power Act which were presented by the executive committee at its fifty-fifth annual meeting and approved by vote of the association at such meeting, and

"Resolved Further, that this association favors the enactment of HR 2972—80th Congress, amending § 201 of the Federal Power Act, together with such amendments thereof as may be necessary to insure that there shall be no hiatus between Federal regulation and state regulation, and

"Resolved Further, that the committee on legislation and the legal representatives of this association are authorized to appear on behalf of the association before any committee of Congress at any hearing which may be hereafter held upon said bill or upon any similar bill."

"RESOLVED, that this association favors withholding congressional action upon pending bills amending the Natural Gas Act until the Federal Power Commission report in Docket No. G-580 is available, and

"Resolved Further, that before any favorable action shall be taken upon HR 4051 and S 734—80th Congress, proposing amendments to the Natural Gas Act, this association asks that §§ 1 and 4 thereof be amended in accordance with the draft of amendments attached hereto, and

"Resolved Further, that this association endorses the amendments of paragraphs (h) and (i) of § 7 of said bills, sponsored by the Illinois Commerce Commission . . . and endorses the amendment of § 3 of said bills sponsored by said commission, and presented to the House Committee on Interstate and Foreign Commerce on April 16, 1947, in so far as such amendment to § 3 is designed to compel the Federal Power Commission to observe the purpose of Congress, that local distributing companies which receive interstate gas only for local distribution shall be free from Federal Power Commission jurisdiction, and subject to the complete control of local state authorities, and

"Resolved Further, that the committee on legislation and the legal representatives of this association are charged with the duty of appearing on behalf of this association at any hearing before any committee of Congress which may be held upon said bills, or any similar bill, for the purpose of presenting this resolution and making a statement in support of the views herein expressed and amendments herein referred to."

"RESOLVED, that the association opposes the enactment of HR 2657—80th Congress, or any similar bill, which may be introduced tending to limit the practice of nonlawyers before Federal agencies, and

"Resolved Further, that the secretary of the association is directed to transmit a copy of this resolution to the chairman of any committee of Congress before which such bills are or may be pending."

"RESOLVED, that the committee on legislation and the legal representatives of the association are charged with the duty of appearing on behalf of this association at any future hearing which may be held on S 43—80th Congress, or any similar bill, before any committee of Congress, for the purpose of seeking an amendment prohibiting the Federal loaning agency [Rural Electrification Administration] from making any loan for the purchase, sale, construction, operation, or enlargement of any telephone line or system unless the consent of the state authority having jurisdiction in the premises, if any, is first obtained."

The March of Events

In General

Less Conservation Urged

M. P. CATHERWOOD, dean of the Cornell University School of Labor and Industrial Relations, last month declared a number of Federal agencies "mean to gain control over the destinies of large sections of the country in which they operate through a stranglehold on the development of natural resources."

In an address at the closing session of the annual meeting of the Interstate Commission on the Delaware River Basin, held at Shawnee-on-the-Delaware, Pennsylvania, Dean Catherwood said the commission had data on a new wave of movements in the Federal government to circumvent the various state and local authorities.

"The present bad actors are the Bureau of Reclamation and the Southwestern Power Administration in the Department of the Interior," he asserted. "In addition, the movement to blanket the country with nine replicas of the Tennessee Valley Authority also is still alive."

Franklin H. Lichtenwalter, speaker of the Pennsylvania House of Representatives, at the same session, declared that a point had been reached in this country's national growth "where Congress should declare a moratorium on programs for the development of natural resources."

Referring to the Bureau of Reclamation, Mr. Lichtenwalter said "now that virtually all of the advantageous and economically sound projects have been completed, it is looking for new frontiers. The greenest pasture appears to be cheap public power. Since it arrived at this conclusion, the Bureau has begun to 'sell' irrigation."

Alabama

House Passes Tax Bill

A BILL to permit cities to increase taxes against public utilities by 50 per cent was passed last month by the state house of representatives and sent to the state senate.

Backed by the Alabama League of Municipalities, the bill to permit municipal governing bodies to collect additional revenue from public utilities was sponsored by Assistant Administration Floor Leader E. L. Roberts of Etowah.

It would raise the ceiling of utilities' licenses from 2 to 3 per cent. Roberts estimated it would give the cities an additional $2,000,000 in revenue annually.

Arizona

Co-op Dealt Setback

THE Ma-Yu Electric Coöperative, which eight months ago announced start of construction on 400 miles of power lines in western Maricopa and eastern Yuma counties to add 10,000 ad-

ditional acres of productive farms to the state's resources, suffered a telling blow on July 24th.

Superior Judge C. C. Faires of Globe, in a decision filed in superior court at Phoenix, permanently enjoined the coöperative from further constructing an electric line, plant, and system in western Maricopa county. His decision came in an injunction suit brought by the Central Arizona Light & Power Company to enjoin Ma-Yu from extending lines into its service area. A supreme court appeal is expected.

The Central Arizona Company sued soon after the co-op was allocated $790,000 by the Rural Electrification Administration in Washington and, boasting a membership of 500 farmers in the two counties, announced it was ready to expand its power distribution facilities.

At the time his company sued, M. O. Best, chairman of the power company's board of directors, said his concern's desire was "to eliminate the economic waste caused by construction of paralleling and duplicating lines."

One of the power company's chief contentions in court was that the coöperative is a public service body under Arizona law, thus coming under jurisdiction of the state corporation commission, yet had no certificate of convenience and necessity from the commission, as has the power company, to serve the particular area in dispute.

The power company also contended it holds a proper franchise from county supervisors, and that the co-op, without lawful right, was invading its field. The latter claimed to be a nonprofit coöperative offering service only to members; contended it thus was not required to obtain a certificate from the state commission, but conceded it needed a franchise from Maricopa county to use county roads in its distribution business.

Judge Faires ruled it would appear that "this places the defendant (the co-op) in a difficult position, for if it is not a public service corporation it is not entitled to a county franchise and if it is such then it must obtain a certificate from the Arizona Corporation Commission."

Lack of Coöperation Charged

THE U. S. Reclamation Bureau and power distributors in the state were charged recently by Kenneth B. Aldrich, director of the Arizona Power Authority Commission, with "lack of coöperation" which has blocked the bringing into Arizona markets of electric energy in sufficient quantity to alleviate the current scarcity.

This vital objective, Aldrich said in a statement following a meeting last month with Colorado river power applicants, could have been accomplished even before the late war, had the bureau and private power distributors coöperated.

Aldrich declared that, ever since its creation three years ago, "the authority has been striving to obtain the coöperation of the Reclamation Bureau and power distributors in a unified effort to make cheap Hoover dam power available to the greatest possible extent throughout the state, instead of launching plans that would saturate a few communities and leave vast portions of the state unserved."

The authority director's comments were made at a meeting at which the state's power situation in general, the status of Davis dam, and the controversy over whether the power division of the Reclamation Bureau shall build transmission lines carrying Davis power into Arizona, were discussed.

Michael W. Straus, reclamation commissioner, subsequently urged from Washington that the Arizona Power Authority begin at once the planning and construction of a network of feeder lines from small cities to the Davis dam trunk lines.

From time to time, he told *The Arizona Republic,* "we have asked the state agency to be ready to begin service to the isolated parts of the state. We want to build the backbone of the transmission system, because we believe it is an integral unit of the reclamation developments. If the power authority will build the smaller lines, we shall work as an ef-

fective team in serving the people of Arizona."

Congressman Richard F. Harless has asked Straus for details as to the anticipated rate of development in the bureau's power line program.

Arkansas

Voters Reject Franchise

CAPITAL TRANSPORTATION COMPANY'S 25-year franchise extension granted by the Little Rock city council on May 4th was defeated by a vote of 4,332 to 2,397 in a referendum last month.

The total vote of 6,729, although considered heavy, fell far short of the record city vote of more than 11,000, cast in the December 17th special election on purchase of the gas system for municipal operation. Only 3 of 22 precincts approved the franchise, and the vote in these 3 was close.

Vice President P. E. McChesney of the transportation company said plans for modernization of the system would be delayed, "but we will continue to give the best transportation possible with our present equipment." His statement was interpreted as notice that the company would not put into service the 15 new gasoline busses which it had received in connection with plans for reconversion under the franchise extension.

McChesney said the city council and the company "are now faced with the problem of trying to work out another franchise that will meet with the approval of the citizens of Little Rock."

California

Sign Tidelands Pact

THE Department of Justice announced on July 26th an agreement to permit continuation of oil and gas operations on the California tidelands, which the U. S. Supreme Court ruled last month belong to the Federal government.

Attorney General Tom Clark and California Attorney General Fred N. Howser signed also a stipulation declaring that the United States does not claim certain specified areas of San Francisco bay, San Diego bay, and San Pedro bay.

The agreement permitting continuation of oil drilling and other operations which were in progress on June 23rd, the date of the Supreme Court decision, specifies that royalties which the state collects must be held in a special fund until determination of just what property belongs to the state and what to the Federal government.

The arrangement for oil operations under state permit was described by the department as "purely interim," subject to revocation by Congress at any time, but in any event to continue no longer than September, 1948.

Connecticut

Supports Tax Commission Ruling

CONNECTICUT'S Attorney General William L. Hadden announced recently he would support State Tax Commissioner Walter W. Walsh's ruling that public utility companies must pay the state's new sales and use tax on retail tangible goods they purchase for their own use and consumption.

"I believe Commissioner Walsh's reasoning on this point is legally sound," Hadden said after a long conference with

the commissioner, "and I believe such corporations are subject to the tax."

The conference between the attorney general and tax commission followed the filing of a suit in superior court by five of the state's largest public utility companies for a declaratory judgment exempting them from the sales and use tax enacted by the 1947 state legislature.

Hadden said he was prepared to defend Commissioner Walsh in the suit and that he would prefer to have the case handled in the regular manner; that is, argued first in superior court before it is appealed to the state supreme court of errors.

Indiana

Obtains Change of Venue

INDIANAPOLIS RAILWAYS, INC., recently obtained a change of venue from Marion Circuit Court to Hancock Circuit Court in the hearing of its appeal from the rate order issued by the state public service commission July 1st.

Through its appeal the company is attempting to set aside the commission order for free transfers, a 5-cent fare for school children, and property depreciation charges as fixed by the commission.

The question whether the company will be permitted to continue to charge 2 cents for transfers was pending before the state supreme court. The company claims it has the right to collect the 2-cent transfer charge.

Kentucky

Restrictions Set Aside

AN order setting aside all restrictions against the installation of gas space-heating equipment in the state was issued recently by the state public service commission.

Four companies are directly affected by the order: Louisville Gas & Electric Company; Central Kentucky Natural Gas Company, Lexington; Union Light, Heat & Power Company, Covington; and Frankfort Natural Gas Company.

It was subsequently announced the order would be appealed by the companies.

The state commission earlier had granted the utilities permission to refuse to serve additional gas-heating customers. Each of the companies had asked that the restrictions be made permanent.

Commission Chairman Charles E. Whittle said the commission felt that such restrictions were discriminatory. He said the gas shortage was not sufficiently acute to warrant such restrictions.

Massachusetts

Phone Rate Increases Approved

RATE increases averaging slightly more than 5 per cent, and representing 25-cent monthly increases to residential phone bills and 50 cents for business service were approved by the state public utilities commission last month, effective immediately.

In addition, the New England Telephone & Telegraph Company received permission to charge one-half cent more per message unit on each phone call in excess of the customer's limit under the measured service system.

Governor Robert F. Bradford asserted that the NET&T's proposals for further increases of 10 per cent in Massachusetts, Rhode Island, Maine, New Hampshire,

and Vermont would be studied and acted upon uniformly by all five states.

Antiutility Strike Law

GOVERNOR Bradford has approved, effective September 25th, the recently enacted antiutility strike law (Chapter 596, session 1947) which authorizes the governor to seize utility properties in event of a strike or threatened strike.

During a period of such seizure work stoppage is made illegal, while wages and hours and working conditions remain the same for the period of state operation. The law does not apply to telephone service, but does apply to other basic industries besides public utilities, such as food and fuel.

Michigan

Carrier Phones Expected

A METHOD of having telephone calls "hitchhike" over electric power lines, introduced this spring for long-distance service in Wisconsin, will be expanded to provide additional rural service in upper Michigan this summer, according to Ben R. Marsh, general manager of the Michigan Bell Telephone Company.

The first use of power lines for rural phone service was scheduled to be tried out late last month near Crystal Falls, Michigan, Marsh said. By the end of August, he added, the system will be expanded to Mansfield location, Colony Corners, Copper Harbor, and Eagle Harbor, all in upper Michigan.

The initial "hitchhike" installation in the United States was made in April between Manitowoc and Appleton. In addition to using regular telephone lines, the company also transmits its calls on power lines, Marsh explained. Each section of the power line has six channels capable of serving eight customers each, he said.

The new installation probably will not be used except on long-distance circuits in Wisconsin.

Nebraska

Utility Valuations Down

THE franchise valuation of Nebraska utility companies has been fixed by the state board of equalization at $2,494,100 for this year, compared with $3,435,550 in 1946.

The decrease of $941,450 is accounted for by the fact that the Nebraska Power Company, Omaha, which last year had a franchise valuation of $1,050,000, has been turned over to the Omaha Public Power District and taken off the tax rolls.

If the Nebraska Power Company property is not taken into account, the increase for the remaining utilities amounts to $108,550 over last year.

The franchise assessment of the Lincoln Telephone & Telegraph Company was increased from $205,000 in 1946 to $210,000 this year.

New Jersey

Gas Heating Limit Reached

CITING "the tremendous demands" made in the last year for gas heating for homes, Public Service Electric & Gas Company has notified all dealers and contractors that no new customers for

gas service can be accepted "at least until after April 1, 1948."

The notification explained that Public Service cannot get pipes, pumps, and other equipment necessary to increase gas capacity in time for next winter's peak demand.

Public Service said 5,000 applications are being filled now.

Public Service sells only the gas. Sale of equipment is handled by independent dealers.

In Elizabeth, the Elizabethtown Consolidated Gas Company, which served Union county communities, reported it is not taking any new customers for the 1947-48 heating season.

The company hopes to have sufficient gas to satisfy those who apply next year for the 1948-49 season, a spokesman said.

New York

Wins Gas Rate Rise

To meet higher operating costs the state public service commission has granted a temporary increase in gas rates to the Brooklyn Union Gas Company, it was announced recently.

The new rates, effective until July 1, 1948, or until otherwise ordered by the commission—pending conclusion of the rate proceeding being held—will become operable upon one day's notice by the company to 800,000 customers in Kings and Queens counties.

The increases range from 3 to about 6.4 per cent for residential service and up to 8 to 9 per cent in general and industrial classifications. The minimum monthly charge has been raised from $1 to $1.03 a month.

In service classifications the increase to meet greater costs in wages, materials, and taxes is 5 cents on each thousand cubic feet of gas. An additional 5 cents each thousand cubic feet will be charged for residential use over 10,000 cubic feet a month.

Last March, when the company asked for increased rates, the commission suspended the proposed tariffs and started an investigation. An interim report by Hearing Examiner Ernest A. Bamman concluded that the company was entitled to a higher revenue.

Commission to Appeal

The state public service commission has authorized its counsel to proceed with an appeal in the Kings County Lighting Case before the United States Circuit Court of Appeals, it was learned recently.

The district court on July 8th approved the plan of reorganization of the company as requested by the company and opposed by the state commission.

Federal Judge Kennedy, it was learned, amended his order directing that the plan not be consummated pending an appeal by the state of New York which he assumed would be prosecuted with dispatch.

Ohio

Transit Conversion Planned

The Cleveland transit system plans to abandon all street railway tracks and replace its streetcars with electric trackless trolley coaches and busses, according to a recent announcement by William C. Reed, transit board chairman.

This conversion to modern passenger transit will cost from $10,000,000 to $14,000,000 and should be completed within ten years, Mr. Reed stated. Cleveland has ordered more than 250 trackless trolleys since the war to supplement its original 79 vehicles. Completion of these new

plans will give Cleveland one of the largest trackless trolley fleets in the world. The only exception to abandonment of all rails will be Cleveland's rapid transit lines, now in the planning stage, Reed added. Instructions have been given Kenneth Ledford, secretary of the board, to prepare a retirement schedule for all streetcar lines, which would be presented to the city council for early action.

Oregon

Merger Proposed

OPERATION of the Pacific Power & Light and the Washington Water Power companies "as an independent regional system," accompanied by removal of common stock ownership in Pacific to the Pacific Northwest, was proposed in a plan announced in Portland last month by the presidents of the two companies.

American Power & Light Company, which now owns the common stocks of both companies, has been ordered by the Securities and Exchange Commission to dispose of its interests in the two Northwest utilities, under the Holding Company Act. American Power & Light and Washington Water Power filed applications recently with the SEC, requesting approval of the first step in the program, which calls for the transfer by American to Washington Water Power of all common stock of Pacific Power & Light.

The second step then would be for American to sell its holdings of Washington Water Power common, "thus divorcing itself from the Pacific Northwest field, but leaving undisturbed the affiliation that has existed between Pacific and Washington for the past twenty years."

Pennsylvania

Phone Rate Hearing Closed

TESTIMONY before the state public utility commission in the hearing of the Penn-Harris hotel and the Pennsylvania Hotels Association against the Bell Telephone Company ended recently, but a brief was expected to be filed prior to requested oral argument before the commission.

The case grew out of a demand on the part of the Pennsylvania Hotels Association to have the percentages given by the Bell to various hotels for telephone service written into the tariff rates of the state commission. Counsel for the hotels argued that, if a definite percentage is posted with the commission, and that amount does not prove adequate, recourse may be had by the hotels to have the tariff rate increased. It was also pointed out that Bell also could have the tariff lowered.

In addition to the demand on the part of the hotels to have the percentage for phone service written into the tariff rates and posted with the state commission, the Bell charges that an amount of approximately $115,000 is due it, covering a period in dispute dating from April, 1944, until June, 1945. During that period of time the Bell Company allowed no percentage since it contended that the hotels were making surcharges. Counsel for the hotels argued that few were making surcharges.

To bring the matter to a head Bell brought suit against the Warwick hotel, Philadelphia, in an effort to recover $5,670.28.

The supreme court ruled that it should not take action in the matter in the absence of a decision of the state commission relating to the posting of tariff rates by the Bell Company.

Washington

Ruling on PUD Upheld

THE state supreme court held in an opinion handed down July 24th that public utility district No. 1 of Clark county has a right to acquire under a decree of public use and necessity the electric properties in that county owned by Northwestern Electric Company, Pacific Power & Light Company, and the Portland General Electric Company. Eight of the nine judges of the court signed the opinion, Judge E. W. Schwellenbach not voting.

The court commented:

> May we say in passing that the conclusions we have reached herein in no way conflict with the decision reached in the Skagit County PUD Case. In that case the high court held that the Skagit PUD might not acquire the properties of the Puget Sound Power & Light Company in nine Washington counties. One of the opinions in that case of which there were several individually written held that the proposed Skagit deal was too comprehensive and far-reaching to serve the needs of Skagit county.

Effect of the recent decision by the state supreme court was to uphold Judge H. G. Sutton of the Clark County Superior Court in a decree handed down in eminent domain proceedings instituted by the PUD.

The opinion was written by Judge Jeffers. Concurring were Judges Mallery, Millard, Steinert, Robinson, Simpson, Abel, and Hill.

Effort to Block Franchise Fails

EFFORTS of Commissioner Kenneth Lawson to amend the Washington Water Power Company franchise ordinance with a provision which he said would be a special safeguard, if the city of Spokane bought out the company, failed at the legislative session last month and the 15-year franchise went into effect when the council majority approved it.

The move of Commissioner Lawson was made when the franchise, which had been approved by a vote of the people, was up for final reading and adoption. Commissioner Lawson told the council § 16 of the franchise should be amended because a claim of severance damages is made when power companies sell to public interests. He said if the company sold its distribution system within the city to the municipality it could ask compensation on the basis of the franchise.

Commissioner Willard Taft said that such damages, if any, would be a matter for the courts to determine.

Wisconsin

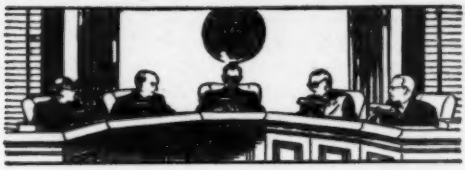
Strike Law Signed

A BILL outlawing strikes, lockouts, and slowdowns in public utility companies was signed into state law by Governor Oscar Rennebohm last month.

The measure provides for conciliation and compulsory arbitration, if necessary, to settle labor-management disputes in telephone, gas, electric, transportation, communication, and other public utility companies.

Under the new statute, the state employment relations board must name a panel of labor relations experts within thirty days to serve as conciliators and arbitrators in public utility disputes.

In instances where labor and management in a utility company fail to reach an agreement through collective bargaining, the board would direct one of the conciliators to seek a settlement. If he fails to produce an agreement within fifteen days, the board would then name three or five arbitrators. Each side would be allowed to strike one name from the list. The arbitrator or arbitrators then would conduct hearings and the final decision would be binding. The arbitrators would have a maximum of sixty days to reach their decision.



The Latest Utility Rulings

Depreciation Practices Criticized in Transit Fare Inquiry

A CASH fare of 10 cents and token fares at the rate of three tokens for 25 cents, without any charge for transfers, were approved by the Indiana commission for the Indianapolis Railways, Inc. Much of the opinion related to depreciation practices. There was controversy as to depreciation on property acquired before and after 1932 when property was acquired in a reorganization.

The company, said the commission, was entitled to a full allowance for depreciation that it would experience in the future with respect to property now used and useful in public service so that it can recoup the fair measure of consumption of the cost of property. The commission, however, stated that, if it accepted one engineer's method of arriving at the amount of annual depreciation in the determination of income for rate-making purposes, it could not accept the "observed depreciation" of other engineers in determining valuation in the same case.

The company had made transfers between depreciation reserve and capital surplus. A reversal of transfers was ordered. Concerning a claim for accelerated recovery of depreciation, the commission said:

> The commission wishes to state that the principle governing this matter which it applies is that, whenever conditions suddenly change so as to require the retirement of property before its expected full life in service has been attained, it is appropriate to amortize the remaining book amount over the remaining useful life. If utilities are, as they are supposed to be, constantly studying their property to see that they record the facts as they transpire, there is no reason for a utility not to recover its full depreciation costs over the service life of the property in each and every case. However, this claim for amortization deals with property known in 1932 to be obsolete and requiring retirement in the course of a rehabilitation and modernization program under consideration when this petitioner acquired the property in reorganization proceedings. All of the property subject to this claim now no longer serves the public, nevertheless petitioner asks that it be allowed to recover the amount of $2,831,592.34 in charges over the future. Since the commission is allowing accelerated depreciation on all property now in service which allowance tends to increase the amount of fares that the public is required to pay, it would seem that the limit of commission discretion has been reached. To fail to face facts for a period of fifteen years and then claim that subsequent rates exacted from customers must cover the amortization of property that fifteen years ago was known to be ready for retirement and which has actually been retired so that it no longer serves the public, cannot be countenanced.

Current fair cash value of lands and an allowance for materials and supplies were approved as part of the rate base. No allowance was made for working capital in view of the nature of transit company operations where a token and cash fare are in effect.

Personnel training costs allowed as operating expenses were excluded from the rate base.

The commission considered a reproduction cost appraisal of nearly $13,000,000 and a depreciated cost of about $5,600,000. The commission fixed a rate base of $8,750,000. Reproduction cost figures were termed hypothetical, conjectural,

and illusory. It was also said that no prudent businessman would actually invest money in a construction project at such cost.

A return of 6.9 per cent on the rate base was found to be reasonable.

The commission required the company to install on an experimental basis a 5-cent fare for school children under proper controls to be arranged between the company and the commission. *Re Indianapolis Railways, Inc. (No. 17782).*

Fuel Clause in Gas Rate Schedule Disallowed

THE Maine commission denied authority to a gas company to add a fuel adjustment provision applicable to all of its rate schedules. But the commission said that it was aware of the fact that changing conditions incident to the war have given rise to somewhat widespread use of flexible fuel clauses in other jurisdictions, and that in some states such arrangements have apparently met with commission approval.

The statute requiring a schedule showing all charges, said the commission, contemplated a schedule from which the customer and the commission could ascertain accurately and definitely the cost to the customer of a given service under definite conditions without reference to extraneous data solely in the possession of the utility. A schedule providing no fixed charges, but proposing that charges fluctuate and vary according to conditions, is not a rate schedule such as is contemplated and required by the statute.

It was observed that under the proposed schedule a customer, upon consulting it, would have no knowledge of what he must pay for gas. He would be required not only to investigate the official rate schedule on file with the commission, but also to ascertain the weighted average cost of fuel of several types to the gas company for the applicable three months' period, and also the credits for residual and steam sales.

This, the commission believed, would not be in keeping with the objective of the statute governing rates. It would make it incumbent upon such customer to obtain voluminous data from the company and to apply various formulae in order to find out whether or not his bill had been correctly computed. Furthermore, it was noted, the cost of fuel, while a large element in the cost of gas service, is not the only factor to be considered in fixing rates.

The commission observed:

> This proposal, in effect, calls for a delegation of the public responsibility of this commission to the utility. Although it is permissive in character and subject to recall, it is nevertheless effective. The utility would be making the automatic rate changes itself, upon its own determination, as to the fair cost of fuel. If this method were more broadly applied as above suggested, it would be doing likewise as to the fair cost of labor and other operating expenses. Whether or not fair prices are paid for fuel would, in effect, be determined not by this commission but by the utility itself.
>
> It may also be noted that the proposal tends to lessen the incentive for the utility to keep fuel costs at the lowest possible level.

Re Portland Gas Light Co. (FC 1251).

Telegraph Rates Raised and Free Service Abolished

ON application by the Western Union Telegraph Company for a 20 per cent increase in rates, the Tennessee commission authorized a 10 per cent increase.

The company, according to the evidence, had suffered a substantial loss on its operations in Tennessee during 1946.

Franked or free telegraph service, said the commission, was an unjust, unwarranted, subsidized, and nonrevenue producing service and therefore should be abolished.

There was excepted from this ban those telegrams sent by regular company employees and bearing directly on the business of the Western Union Telegraph Company.

Commissioner Jourolmon, in a dissenting opinion, referred to the order of the commission in *Re* Western Union Teleg. Co. (Tenn 1946) 67 PUR(NS) 210, denying an increase, ordering a rate reduction, and approving a flat rate of 25 cents for full rate telegraph messages throughout the state. He said that the company, having eliminated competition, was seeking rate increases throughout the country and that the Federal Communications Commission and most of the state commissions had "furthered this end and permitted the company to increase its rates in an effort to increase its revenues." He said that the citizens of Tennessee had a right to expect a higher standard of regulation from their state commission.

He discussed the question of competition and the loss of business which results from rate increases. Referring to a reported increase of 50 per cent above normal during the nation-wide telephone strike, he said that it appeared that the salvation of the company would be the establishment of rates which would keep a large proportion of this business. He also declared that constitutions and laws do not guarantee a utility that it will receive a fair rate of return in spite of competition. *Re Western Union Telegraph Co. (Docket No. 2810).*

Interstate Use of Phone Does Not Bar State Rate Control

A SUIT by a subscriber to enjoin an order of the Maryland commission granting an increase in intrastate telephone rates was dismissed by the Maryland District Court.

The subscriber contended that, since the same telephones were used for both interstate and intrastate communications, the state commission did not have jurisdiction to make a rate order. The court, in overruling this contention, made the following statement:

> . . . it is perfectly clear that the public service commission of Maryland has the right to fix intrastate rates, as everybody agrees, and that it did not lose that power, because, under the very common practice, the telephone instruments that are used in connection with the local exchanges are also used in interstate communication. Certainly we think that it in no way marches against our conclusion that the ordinary user of a telephone who wants to make a long-distance call must use the instrument in his own house or business place, for which he pays a local exchange rate. That is such a practicable and utterly convenient and reasonable arrangement that we cannot imagine that any court would say that that converted what is essentially an intrastate charge into a regulation of or interference with interstate commerce.

Walter v. Lane.

Company Not Required to Pay Commission Expense in Court Proceeding

THE state of Washington sought unsuccessfully to recover from the Pacific Telephone & Telegraph Company attorneys' fees and other expenses in connection with the review of rate orders. The department of public service, according to the state supreme court, may recover moneys expended in its investigation of a public utility, but in a court proceeding it may recover only the reasonable cost of preparing the transcript of testimony.

A statute provides that, in any proceeding in which expenses of investigation by the department exceed the ordinary regulatory fees paid by the company, the public service company shall pay the expenses reasonably attributable or alloca-

ble to the investigation, valuation, appraisal, or services. This provision was distinguished from that involved in Washington R. & Electric Co. *v.* District of Columbia (1935) 64 App DC 243, 77 F2d 366, where provision is made for recovery of expenses of any investigation, valuation, revaluation, "or proceeding of any nature."

The legislature, said the court, meant to require the public to pay the expenses of the department of public service in its investigation, valuation, appraisal, or services. The department has complete jurisdiction of its investigations. It hires employees and makes its determinations. The attorney general has no authority or supervision.

On the other hand, when the department is taken into court, then the state attorney general has complete authority for the handling of the case. Judicial proceedings in court are entirely distinct and separate from investigations by the department. *State v. Pacific Telephone & Telegraph Co. 181 P2d 637.*

Union Permitted to Intervene in Railroad Matter

A PETITION by a union of railroad workers for permission to intervene in a suit by trunk line railroads to enjoin a switching railway from changing existing arrangements for switching livestock cars was granted by the United States Supreme Court.

The court quoted § 17(11) of the Interstate Commerce Act, which provides that representatives of employees of a carrier may intervene in any proceeding arising under the Interstate Commerce Act which affects employees, and ruled that it was applicable to the case at hand.

The union argued that the primary object of the suit was to nullify its agreement with the switching railway and that, therefore, it was an indispensable party under § 17(11). The railroad contended that the statute relied on was applicable to commission proceedings only.

The court carefully examined the statute and then dismissed the railroad's contention with this statement:

> Here the meaning of § 17(11) is unmistakable on its face. There is a simple, unambiguous reference to "any proceeding arising under this act" or, as the House committee paraphrased it, to "any proceedings arising under Part I." There is not a word which would warrant limiting this reference so as to allow intervention only in proceedings arising under § 17 or in proceedings before the commission. The proceedings mentioned are those which arise under this act, an act under which both judicial and administrative proceedings may arise.

Brotherhood of Railroad Trainmen v. Baltimore & Ohio R. Co.

Railroads Fail to Obtain Rate Increase

THE New York commission denied an increase of 5 per cent in intrastate railroad rates on certain groups of articles or classes of traffic. It held that, when railroads ask for an increase which is not nation wide, and which is based upon a theory that the financial results of operations within certain geographical areas justify a greater increase in rates than that required on a nation-wide basis, then it becomes incumbent upon them to prove that the nonuniform increase is justified by revenue needs within the specific area within which they are seeking the increase.

A comparison of dollars actually expended within the state to dollars expended in a state where there is a greater proportion of through traffic and where terminal costs are relatively less important furnished no basis for conclusions.

There was said to be no justification for increasing freight rates within the state of New York to enable the railroads

to have sufficient revenues so that they might, through the medium of divisions, subsidize railroads in other parts of the country.

Such divisions, it was observed, are not within the jurisdiction of the state commission. *Re Rates and Charges of Rail Carriers (Case 12882).*

Carrier Must Comply with Transfer Contract

THE New Jersey Court of Chancery granted a bus company's request for a decree of specific performance of a contract for the transfer of motor carrier rights.

Two bus companies had entered into an agreement in which the holder of a certificate agreed to transfer his right to the other carrier and to make a joint application to the Interstate Commerce Commission for approval of the transfer. Subsequently the certificate holder declined to make the application.

The court held that the contract was capable of specific performance, at least in so far as the holder of the certificate could be required to apply to the commission for approval. *Royal Blue Coaches, Inc. v. Delaware River Coach Lines, Inc. 52 A2d 763.*

Court Upholds Motor Carrier Penalty

A MOTOR carrier's appeal from a decision in favor of the state of Washington in an action to recover a penalty imposed for failure to remit for COD shipments was affirmed by the Washington Supreme Court. The carrier contended that it had transferred its certificate and upon transfer had deposited a sum of money in the bank to cover all unpaid COD claims and that, therefore, it could not be required to pay a penalty.

The court ruled that the department's requirement of the bank deposit did not estop it from imposing a penalty for any violation of its regulations by the carrier. The state department of public service, the court ruled, retains jurisdiction over a carrier after the transfer of its certificate until all claims for COD shipments have been paid in full. *State v. Cater's Motor Freight System, Inc. 179 P2d 496.*

Other Important Rulings

THE Tennessee commission denied an increase in railroad freight rates upon a finding that the railroads had not sustained the burden of proof as to the separation of revenues, expenses, and property and had failed to show the effect of intrastate rates on revenues which the carriers are deriving from transportation service within the state. The commission also held that rates in Tennessee did not discriminate or prejudice citizens or localities of other states or shippers or receivers of freight in interstate commerce. *Re Railroad Freight Rates and Charges (Docket No. 2767).*

The Federal Power Commission determined that it had no jurisdiction over the operations of an applicant for a certificate under the Natural Gas Act, on the finding that the company was not a natural gas company within the meaning of the act, because its operations were confined to production and gathering and arm's-length sale upon completion of the gathering of the gas produced from its wells. *Re Fin-Ker Oil & Gas Production Co. (Docket No. G-352, Opinion No. 149).*

A company making sales of natural gas

for resale to an interstate pipe-line company for transportation and sale outside the state where it was produced was held to be outside the jurisdiction of the Federal Power Commission where it had no transmission facilities and was engaged primarily in the production, gathering, and processing of natural gas and the delivery and sale of such gas at the outlets of cycling plants or direct from wells into field or transmission lines owned by others. *Re Tennessee Gas & Transmission Co. et al. (Docket No. G-606, Opinion No. 150).*

In approving a telephone company's application for authority to increase rates, the Wisconsin commission commented that company rules relating to collection of telephone bills should be rigidly enforced so that its losses from uncollectible accounts would be minimized. *Re Marquette & Adams County Teleph. Co. (2-U-2315).*

The public utilities commission of the District of Columbia, in authorizing the Capital Transit Company to discontinue the sale of tokens and to increase the price of the weekly pass so as to yield a return of 7.5 per cent, ruled, among other things, that under the investment theory of rate making, particularly when a company does not accrue interest during construction, construction work in progress should be included in the rate base. *Re Capital Transit Co. (PUC No. 3453, Formal Case No. 363, Order No. 3199).*

The appellate division of the New York Supreme Court held that the commission's failure to act on an application for a rehearing of an accounting order until after the expiration of the time provided by statute for commission action did not constitute a denial of the application or render an order granting the rehearing null and void, so as to enable a public utility company to seek a review of the accounting order. *Rochester Gas & E. Corp. v. Milo R. Maltbie.*

The Idaho commission, in approving an application for authority to increase motor carrier rates, stated that, where truck rates and charges are made by combining separately stated rates, such combination factors shall not be increased separately but a single increase should be applied to the total through rate or charge. *Re Rocky Mountain Motor Tariff Bureau (I&S (Ex parte) Case No. 10, Order No. 23).*

The Federal Power Commission dismissed for want of jurisdiction an application by a power company to merge or consolidate into its own facilities the electric distribution system of a municipality, since this would not constitute a merger or consolidation "with those of any other person" within the meaning of § 203(a) of the Federal Power Act. *Re Northern States Power Co. (Docket No. IT-6042).*

The Federal Power Commission, in terminating proceedings relating to the regulation of accounts of the Connecticut Light & Power Company because the company was cutting its last remaining connection with out-of-state power, made the observation that in doing so the company was clearly within its legal rights although this would make it subject only to the jurisdiction of the state commission. *Re Connecticut Light & Power Co. (Opinion No. 151, Docket No. IT-5665).*

The Civil Aeronautics Board ordered an air carrier to cease and desist carrying both persons and property on the same flight after its investigation disclosed that it had not received authority for that type of operation. *Re Willis Air Service, Inc. (Docket No. 2639).*

The Indiana commission held that regular and alternate motor carrier routes are not severable, and a carrier authorized to operate over a regular route as well as an alternate route may not sell one while retaining the other. *Re Motor Express, Inc. (No. 2585-A, 4).*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

PREPRINTS

OF CASES TO APPEAR IN

Public Utilities Reports

COMPRISING THE MORE IMPORTANT DECISIONS, ORDERS, AND RECOMMENDATIONS OF COURTS AND COMMISSIONS

VOLUME 69 PUR(NS) NUMBER 2

Points of Special Interest

Titles and Index

TITLES

INDEX

Re Northern States Power Company

2-U-2373
May 20, 1947

APPLICATION *by power company for approval of purchase of municipal electric plant; granted subject to conditions.*

Consolidation, merger, and sale, § 20 — Duties of Commission — Value — Acquisition of municipal plant.

1. The Commission, in a proceeding for approval of the purchase of an electric plant from a municipality, is concerned with the value of the property for only two purposes: (1) to ascertain whether such value differs substantially from the purchase price, and, if so, (2) to ascertain and prescribe the proper accounting practice to reflect the proposed transaction and its results, p. 35.

Accounting, § 32 — Property acquisition — Excess over purchase price.

2. A company acquiring a municipal electric plant at a price greatly exceeding its value, which is found to be depreciated original cost, should record the acquisition in its plant accounts at original cost, together with a credit to depreciation reserve for accrued depreciation, so as to reflect a book cost, less depreciation, equivalent to the value, and it should charge the excess purchase price to earned surplus account, p. 35.

By the COMMISSION: Northern States Power Company, Eau Claire, Eau Claire county, an electric public utility, on February 21, 1947, filed with this Commission an application for approval under § 196.80, Statutes, of the purchase by such company of the electric public utility property of the city of Colby, Marathon county, as an electric public utility, for the sum of $55,000.

APPEARANCES: Northern States Power Company, by Albert Smith, District Manager, Chippewa Falls, Max Peters, Chippewa Falls, and Henry Neipert, Eau Claire, by Ramsdell & King, Attorneys, Eau Claire; of the Commission staff: W. Oakey, engineering department, E. D. Felch, engineering department, and O. P. Deuel, rates and research department.

In docket 2-U-2220, the Commission by order of January 7, 1947, found that the proposed sale by the city of Colby of its electric public utility property to Northern States Power Company in accordance with the terms of a preliminary agreement between the city of Colby and the company, dated August 6, 1946, and for a purchase price of $55,000 would best serve the interests of the city of Colby. Pursuant to the provisions of § 66.06(13), Statutes, the preliminary agreement was submitted to the voters of the city of Colby at an election held February 4, 1947, and was approved by a

vote of 335 to 35. Thereafter the city council authorized the mayor and the city clerk to carry out the terms of the preliminary agreement. The company now requests approval of the purchase. The record in docket 2-U-2220 has been incorporated by reference in the instant case.

Under the terms of the preliminary agreement the company agrees to construct a new transmission line and step-down substation and to install certain voltage-regulating and other equipment at a total estimated cost of $41,500. At the hearing it was stated that, because of the temporary loss of the load of the Northwest Distributing Company, the above work would be postponed until it became necessary and that the city of Colby had raised no objection to such temporary postponement. The Commission does not consider that these circumstances materially affect the present application.

The evidence shows that the proposed transfer will result in a reduction in rates to many customers of the utility in Colby and that no rates will be increased. The applicant proposes to institute its standard rate schedule in all cases where that schedule is lower than the present rates of the city and will retain the present rates of the city where those rates are lower than the applicant's standard rate schedule. It does not appear that the rates, as thus proposed, will be discriminatory. A superior service, both in quantity and in quality, will be available to customers of the utility as a result of the acquisition of the property by the applicant.

In the order in docket 2-U-2220, the Commission concluded that: (6) Based on a comparison of net book cost, depreciated investment cost, depreciated historical cost, or depreciated reproduction cost, the sum of $55,000 for the property is in excess of the value of the property. (7) The prospective purchaser has sufficient surplus to absorb any part of the purchase price to be charged to adjustment accounts as may be directed by the Commission so that the purchaser's other customers will not be adversely affected.

These conclusions were based on an appraisal made by the Commission staff on September 15, 1946.

At the hearing in the instant case a representative of Northern States Power Company testified that the company had nothing to present which might indicate that the historical cost appraisal prepared by the Commission staff and submitted in 2-U-2220 was not indicative of the cost and of the condition of the property to be transferred. He did, however, state that the company contemplated making a similar study but declined to say how the company proposed to handle any apparent excess payment on its accounting records.

The record also contains the cost and cost less depreciation as shown by the books of the city. While there is a slight difference in date as of which depreciation was estimated between the books of the city and the Commission's appraisal, the figures are substantially comparable. These figures, limited to the property to be transferred, are as follows:

	Book Costs 12/31/46		Commission Staff Appraisal 9/15/46	
	Cost	Cost Less Dep.	Historical Cost New	Historical Cost New—Less Dep.
Utility Plant	$44,129.87	$20,170.99	$41,788	$24,648
Materials and Supplies	2,918.42	2,918.42	2,918	2,918
Total	$47,048.29	$23,089.41	$44,706	$27,566

The applicant's offer is as follows:

Utility Plant	$52,081.58
Materials and Supplies	2,918.42
Total	$55,000.00

So far as the value of the property involved (exclusive of materials and supplies) is concerned, we think that the sum of $24,648 (shown above as the Commission staff's estimate of historical cost, less accrued depreciation, of such property) is more reliable as a guide to the determination of that value than is the corresponding figure of $20,170.99 which indicates the book cost of such property less accumulations of depreciation expense charges applicable thereto. From the evidence we have concluded that the value of such property does not substantially differ in amount from the staff's estimate of historical cost less accrued depreciation, as above indicated.

[1] We are concerned with the value of the property here involved for two purposes only: (1) to ascertain whether such value differs substantially from the purchase price therefor, and, if so, (2) to ascertain and prescribe the proper accounting practice to reflect the proposed transaction and its results.

[2] It is unquestioned that the proposed purchase price of the property here involved greatly exceeds its value. And since that value does not differ, substantially, from the historical cost of the property less the depreciation presently accrued thereto, it is proper that the applicant record the acquisition of all such property (except materials and supplies) in its plant accounts at the amount of $41,788 together with a credit to its depreciation reserve of $17,410, so as to reflect a book cost, less depreciation, of $24,648; and that the difference between said $24,648 and the purchase price of $55,000, after adjustment for materials and supplies acquired, shall be charged to applicant's earned surplus account.

The Commission finds:

1. That the proposed sale of the electric public utility property of the city of Colby to Northern States Power Company at and for the purchase price of $55,000 and pursuant to the terms and conditions of an agreement for such purchase and sale entered into between the city and the company in evidence in this proceeding, but subject to the conditions prescribed in the order herein, is consistent with the public interest.

2. That the original cost of said property, exclusive of materials and supplies, is the sum of $41,788; that a proper charge for the depreciation accrued to said property as against such original cost thereof is the sum of $17,140; and that the present value of said property, exclusive of materials and supplies, is not substantially different from the depreciated original cost of said property amounting to $24,648.

ORDER

It is therefore *ordered:*

1. That the consent and approval of this Commission be and is hereby given to the sale of the electric public utility property of the city of Colby, as an electric public utility of this state, to Northern States Power Company at and for the price of $55,000.

2. That the difference between the purchase price of said property of $55,000 and the sum of $24,648, after adjustment by way of deduction for the amount to be recorded on account of materials and supplies to be acquired, be charged by Northern States Power Company to its earned surplus account.

3. That not later than thirty days from the date of this order Northern States Power Company shall submit to this Commission bookkeeping entries which it proposes to make to its various plant and surplus accounts and to its materials and supplies account to record the transaction here involved upon its books; which proposed entries shall be subject to the informal approval of this Commission.

4. That the consent and approval herein given shall be void if the proposed transaction shall not be consummated on or before February 4, 1948, unless the time for consummating the same shall be extended by order of the Commission made pursuant to application filed prior to February 4, 1948.

5. That Northern States Power Company, after consummation of the proposed sale, shall place in effect the rates set forth in its standard rate schedule for all service thereafter rendered within the area now served by the city of Colby, except that whenever the existing rates of the city of Colby are less than the rates prescribed in said standard schedule, the rates to be charged by Northern States Power Company shall be those now charged by the city of Colby.

MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

Re Emile J. Dube et al. Doing Business As D & L Agency

D.P.U. 5955-GW
April 18, 1947

PETITION *for license to engage in business of rendering special or charter service by motor vehicle; dismissed.*

Certificates of convenience and necessity, § 116 — Special or charter service by motor vehicle.

The business of rendering special or charter service by motor vehicle, under a plan for hiring vehicles from local carriers and selling admission to par-

ticular events at a price including transportation, cannot be authorized under the Massachusetts statutes.

By the DEPARTMENT: Upon the foregoing petition, a public hearing was held October 28, 1946.

It appears from the testimony that the petitioner desires to render a service similar to that of a broker by offering to the public certain special services via motor vehicle. The motor vehicles to be used in this service would be hired from local carriers. For example, the petitioner would advertise for sale admission to some particular event, or series of scheduled events such as night ball games including transportation to and from same.

We are of the opinion that § 11A of Chap 159A does not authorize the type of service which the petitioner proposes to render. We are further of the opinion that in the instance where the petitioner would offer a service to a series of events, such as that above stated, this service would encroach upon the provision of § 1 of said chapter.

It further appears that said Chap 159A does not provide for the licensing of brokers engaged in the business of rendering transportation to the public via motor vehicle.

In view of the foregoing, after public hearing and consideration, we are of the opinion that this petition should be dismissed, and it is so *ordered.*

NEW YORK PUBLIC SERVICE COMMISSION

Glens Falls Portland Cement Company

v.

New York Power & Light Corporation

Case 12885
April 30, 1947

COMPLAINT *by industrial customer of electric utility as to certain rates and billing methods; dismissed.*

Procedure, § 30 — Basis for determination — Evidence.

1. The Public Service Commission may make determinations only upon evidentiary proof, p. 39.

Rates, § 303 — Coal surcharge — Electric rates.

2. A coal surcharge contained in an electric rate schedule is not a direct reflection of the exact increase or decrease in cost of fuel which the utility uses to generate electricity, but many other factors must be considered; all factors in a particular rate are in part arbitrary and are agreed upon as

offering the greatest good to the greatest number of customers without jeopardizing the economy of the utility, p. 39.

Discrimination, § 96 — Electric rates — Industrial use — Discount on high voltage service.

3. A complaint that an industrial consumer is not permitted a discount on its bill because it takes primary service at 33,000 volts, although the rate schedule provides for a discount when primary service is taken at 50,000 volts and above, is not sustained by the argument that transformer loss is less at 33,000 volts than it would be at a smaller voltage, when the chief factor which distinguishes service at above and below 50,000 volts is that service at above that figure can be made from transmission lines, while service at below that figure must be made from the distribution system, and the discount accordingly represents a difference in the cost of furnishing service, p. 40.

Rates, § 323 — Electric demand charge.

4. Billing an industrial electric customer for reactive kilovolt-ampere demand at the time of maximum kilowatt demand would not consider the maximum value of reactive kilovolt-ampere demand, which usually occurs at some time other than maximum kilowatt demand, p. 40.

Rates, § 323 — Electric demand charge — Complaint by industrial customer.

5. A complaint, by an industrial customer of an electric company, that active and reactive demands should be determined from the interval when the maximum kilowatt demand occurs should be dismissed if he is billed correctly in accordance with a filed rate schedule requiring that maximum kilowatt demand and maximum reactive kilovolt-ampere demand shall be used for billing regardless of the time interval in which they may have occurred, where no factual proof is presented that the charge for reactive kilovolt-ampere demand is excessive or that the charges for demand were incorrectly computed or billed, p. 40.

Rates, § 640 — Complaint by industrial customer — General rate schedule.

6. A complaint by one industrial customer against a general rate schedule, involving a number of customers who are not parties to the proceeding, should be dismissed when the rate structure is reasonable and proper as a matter of theory and no reasonable proof is adduced to indicate that the rate complained of is in any way unfair or discriminatory to the complaining customer, p. 41.

APPEARANCES: Sylvan Ehrlich, Glens Falls, in behalf of Glens Falls Portland Cement Company; LeBoeuf & Lamb (by Lauman Martin), New York city, Attorneys, for New York Power and Light Corporation; Albert J. Danaher, Albany, Attorney, for New York Power and Light Corporation.

EDDY, Commissioner: This case involves a complaint of an industrial customer regarding the charges of the New York Power and Light Corporation contained in Service Classification 3, PSC 115, effective April 15, 1946. It should be noted in passing that the adoption of this rate schedule reduced the company's bills for the eleven months commencing in April, 1946, and ending February, 1947, by $3,378.14. The complaint includes three questions, to wit: (1) That the com-

pany's coal surcharge, as provided in its industrial rate schedule is incorrect; (2) That the company should allow a discount on bills of customers taking primary service at 33,000 volts, and (3) That the method of computing demand charges is incorrect.

[1] At the outset, two matters should be made clear. (1) Much of the controversy presented here was disposed of in the opinion of Commissioner Burritt, Case 10125, Dec. 3, 1940. (2) The complainant's case is based largely on a misconception of the powers and proper functions of the Public Service Commission. In all matters, this Commission may make determinations only upon evidentiary proof. With the exception of certain information taken from the company's annual reports, as to the amount of steam-produced electric energy, the record is devoid of any proof whatsoever upon which a factual determination can be made.

We are dealing here with the complaint of one customer as to a general rate schedule involving a number of customers and which rate schedule is similar to other rate schedules which have been in effect for a considerable period of time. To satisfy the complaint of the present customer, the whole schedule affecting many customers, who are not parties to this proceeding, would have to be revised, and such a revision would no doubt work a hardship on other customers. It is impossible to meet the desires of every customer on any particular rate. No formal complaints other than that in this case have been received regarding the rate in question.

The Coal Surcharge

[2] The complainant assumes that the coal surcharge contained in the rate schedule is a direct reflection of the exact increase or decrease in cost of the fuel which the utility uses to generate the electricity. This is not entirely true. Many other factors must be considered.

Each class of customers must provide a certain proportion of a utility's gross income. If the cost per kilowatt hour in a particular rate is reduced, then some other factor should be increased to obtain the necessary income. Therefore, if the coal surcharge were to be reduced, as is requested in this case, it may be necessary to increase some other factor to obtain an equivalent income. All factors in a particular rate are in part arbitrary and are agreed upon as offering the greatest good to the greatest number of customers without jeopardizing the economy of the utility.

The complainant produced figures by which he seeks to prove that, on the basis of electricity generated by the New York Power and Light Corporation alone, the amount of coal required to produce this energy percentage-wise does not justify the particular surcharge which appears in the rate. The utility considers that the propriety of the coal surcharge should be determined on a system-wide basis, in this case the entire Niagara Hudson System, and not solely on the basis of a single utility.

Without the necessity of passing upon that question, it is clear that the complainant's figures do not include any considerable amount of electric

energy purchased by the utility on contracts including coal surcharges, which apply to a considerable portion of the kilowatt hours purchased from hydro sources. Thus, upon the complainant's own presentation, his case falls.

Discount

[3] The Cement Company complains that it is not permitted a discount on its bill because it takes primary service at 33,000 volts, although the rate schedule provides for a discount when primary service is taken at 50,000 volts and above. The complainant's argument is that he is entitled to a discount because service is taken at 33,000 volts, since if service were taken at a lesser voltage, such as 2,300 volts, the transformer loss would be much less than at 33,000 volts. This may be true, but here again the complainant requests a change in the rate schedule to suit his own individual conditions.

Under the terms of the rate in question, the utility states that service will be supplied at the voltage designated by them. In the case at hand, this voltage is 33,000 volts. This is a reasonable provision since the factors comprising the rate as a whole consider that the utility will only be required to supply service at such voltage as it may have available in the vicinity, considering other necessary factors of availability, adequacy, and continuity of service.

A discount is provided in the rate when service is supplied at 50,000 and higher voltages. The chief factor which distinguishes service at above and below 50,000 volts is that service at above that figure can be made from the company's transmission lines, while service at below that figure must be made from the distribution system and the discount accordingly represents a difference in the cost of furnishing service.

Here, again, no evidence whatsoever has been offered by the complainant which would indicate that any discrimination exists as between the provisions of the rate schedule, and likewise, it appears that the complainant's argument is based on an erroneous theory as to the reason for the discount.

Method of Computing Demand Charges

[4, 5] The principal complaint is that the Cement Company believes that the active and reactive demands should be determined from the interval when the maximum kilowatt demand occurs. The rate requires that the maximum kilowatt demand and maximum reactive kilovolt-ampere demand shall be used for billing regardless of the time interval in which they may have occurred. There is no question that the utility is billing the customer correctly in accordance with the filed rate schedule.

As in the case of the application of the discount the complainant desires a revision of this part of the rate schedule to suit his individual conditions.

The entire matter of this form of demand charge was the subject of a hearing held in Case 10125, *supra*, and there is no indication of any general dissatisfaction among the many customers being presently billed on the several rates incorporating this feature.

In the making of any rate, several

elements must be considered. Of primary importance is the requirement that a utility must be prepared to serve the maximum demand required by all of its customers at any time. To do so, requires a plant which includes generating capacity, transmission, and distribution facilities adequate to meet the needs of all of its customers. If the requirement for service by all customers was the same at all times, and if all customers' equipment was such that only kilowatts and no reactive kilovolt-amperes were required, much idle plant could be avoided, the utility's investment would be less and there might be a strong argument that the only charge which customers should pay would be an amount for the energy used. However, in the case of industrial customers, the amount of energy used may be quite small at one time and very large at another. The amount of reactive kilovolt amperes also fluctuates considerably and a customer's maximum reactive kilovolt amperes usually occurs at some time other than maximum kilowatt demand.

To compensate the utility for the plant required for both maximum kilowatt and maximum kilovolt-ampere demands, demand charges for both of these factors have become a standard feature of substantially all industrial electric rates. With respect to the active energy supplied, the utility is paid in part by the charge per kilowatt hour, and in part by the kilowatt demand charge. In so far as the supply of the reactive kilovolt-ampere component is concerned, there is a charge for excess reactive kilovolt-ampere demand, but there is no charge for reactive kilovolt ampere hours, although the company is required at all times to maintain the plant necessary to supply the reactive component supplied to the customer. It, therefore, follows that the utility must, to have an equitable rate, receive some compensation for supplying the reactive component, since it does not follow that reasonable compensation would be obtained to any extent solely by payments for energy.

The customer desires that he be billed for reactive kilovolt-ampere demand at the time of maximum kilowatt demand. It is apparent that such a method of billing would not consider the maximum value of reactive kilovolt-ampere demand, which usually occurs at some time other than maximum kilowatt demand.

Charges for reactive kilovolt-ampere demand paid by a customer under a filed rate schedule are largely within the control of the customer and may be avoided entirely or to a large extent by the efficient use of his plant or by installing corrective equipment. If a customer, by reason of plant inefficiency, requires the power company to provide additional generating, transmission, and distribution facilities, and does not pay some compensating charge, the cost of the power company's additional equipment must be met by other customers on the system.

No factual proof was presented by the complainant that the charge for reactive kilovolt-ampere demand is excessive nor that the charges for demand were incorrectly computed or billed.

Discussion.

[6] This complaint concerns a number of questions regarding billing un-

der a filed rate schedule and is almost entirely a matter of argument addressed to the theory upon which the rate is based. The argument offered does not sustain the complaint. The rate structure about which the complaint is made is reasonable and proper as a matter of theory. A rate, however, may be sound in theory, but may have the result of improperly distributing charges to groups of customers. Such an inquiry becomes very pertinent in any general rate investigation. This is not such an investigation. It is a complaint solely by one customer receiving service at one rate, and no reasonable proof has been adduced which indicates that the rate complained of is in any way unfair or discriminatory to the customer who has made the complaint.

Conclusions and Recommendation.

It is recommended that the complaint be dismissed.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re Commonwealth Telephone Company et al.

Application Docket No. 67331
May 5, 1947

APPLICATION *by telephone companies for approval of sale and exchange of facilities and discontinuance of service by each company in the territory affected by the exchange; approved.*

Consolidation, merger, and sale, § 25 — Telephone facilities — Service improvement — Subscribers' protest.

1. A protest of a small number of telephone subscribers who will be adversely affected by a proposed sale and exchange of telephone facilities between two competing companies should not be permitted to stand in the way of a project which would substantially affect the present and future progress of telephone communication, p. 46.

Monopoly and competition, § 28 — Telephone exchange boundaries — Commission approval.

2. The establishment by competing telephone companies of an exchange boundary which does not appear to have been determined in a capricious or arbitrary manner should be approved, notwithstanding protests of a few subscribers, since wherever the boundary line is placed, there will always be subscribers on one side who prefer to be served by the other side, p. 46.

Rates, § 120 — Reasonableness — Service at minimum cost.

3. Telephone rates should be designed to provide service at a minimum cost to subscribers, p. 46.

RE COMMONWEALTH TELEPHONE CO.

Monopoly and competition, § 83 — Telephones — Commission policy.

4. A telephone utility should be permitted to render service without the threat of invasion of its territory and ruinous competition by another telephone company, p. 47.

Consolidation, merger, and sale, § 24 — Elimination of competition — Telephone merger.

5. A unification of two telephone systems, which would tend to eliminate wasteful duplication of facilities and provide a unified and universal service to the public, should receive Commission approval, p. 47.

Rates, § 573 — Telephones — Toll charges between local exchanges.

Statement that telephone toll charges may be applied between local exchange area, p. 46.

By the COMMISSION: Commonwealth Telephone Company (Commonwealth), a Pennsylvania corporation, was organized under the Act of Assembly approved April 29, 1874, and acts amendatory thereof and supplemental thereto, and is engaged in rendering telephone service in the counties of Sullivan, Bradford, Wyoming, Susquehanna, Luzerne, and Lackawanna. North-Eastern Pennsylvania Telephone Company (North-Eastern), was organized as a telegraph company under the provision of said Act of Assembly and operates a telephone system in the counties of Lackawanna, Wayne, Wyoming, and Susquehanna. Commonwealth and North-Eastern have relinquished their telegraphic rights and have accepted the terms of the supplement to said Act of Assembly, providing for the incorporation and regulation of telephone companies, approved July 22, 1919, PL 1123.

Commonwealth and North-Eastern compete with each other in certain exchange areas in Lackawanna, Wyoming, and Susquehanna counties and maintain no direct connections for the interchange of service in these areas. For the purpose of eliminating duplication of service and facilities and to accomplish unification of the systems of the companies in the areas involved, Commonwealth and North-Eastern entered into an agreement whereby each of the parties agrees with the other to sell and transfer certain property, including poles, cables, franchises, central office equipment, and other equipment now or at the time of settlement, located in Susquehanna, Wyoming, and Lackawanna counties.

The agreement provides that Commonwealth, in addition to the transfer and exchange of certain property, shall pay to North-Eastern the sum of $14,967 in the following manner: the sum of $967 on the day of final transfer and exchange, and $1,000 per month thereafter until the full sum is paid. The estimated structural values of the physical properties to be acquired by the parties are as follows:

North-Eastern property to be acquired by Commonwealth	$17,777
Commonwealth property to be acquired by North-Eastern	2,810
Net consideration payable by Commonwealth	$14,967

A total of 272 subscribers are involved in the areas affected by the pro-

posed unification. Of this number, 242 North-Eastern subscribers will be acquired by Commonwealth, and 30 of the latter's subscribers will be acquired by the former. Most of these subscribers were interviewed by applicants with the following results:

Favor proposed unification	218
Oppose unification	14
Noncommittal	6
Not interviewed	34
Total	272

Fourteen subscribers are against unification because they will be required to pay toll charges on messages between certain exchanges. North-Eastern subscribers in the affected areas are now able to call all stations served by the North-Eastern system without the payment of a toll charge. However, they have been and are unable to call Commonwealth stations in the competitive areas and they are restricted in their use of service, as there is no interchange of traffic between the two systems and the long-distance service of the Bell system is not available to them.

At the hearing, North-Eastern submitted evidence through its wire chief, Edward Maile. Mr. Maile testified that North-Eastern is presently serving 1,935 subscribers. Universal toll service is denied to approximately 500 subscribers who are served by exchanges in the competitive area. He said that, after the unification of the properties, North-Eastern will serve approximately 1,700 subscribers, all of whom will be able to secure universal toll service; also that the money North-Eastern receives from Commonwealth will be used to modernize the former's telephone plant. A new Stromberg Carlson two-position common battery switchboard has been ordered and delivery is scheduled for this year. This switchboard will be installed at New Milford and will replace the present magneto type switchboard. North-Eastern also intends to order an unattended automatic type switchboard for installation in its Harford exchange.

At the request of counsel for protestants, Mr. Maile produced a statement which purported to show the financial position of North-Eastern as of December 31, 1945. The statement was incorporated into the record by reference. Although the witness testified he was a wire chief, charged with the maintenance of North-Eastern's plant facilities, and that the company's general manager is in charge of finances, counsel for protestants examined the witness at some length on the various items included in the statement. Answers to questions posed by protestants' counsel regarding the finances of North-Eastern indicate the witness was not qualified to testify on financial matters. However, an examination of the company's annual report for 1945 indicates that its working capital is deficient, since the current assets and current liabilities are shown to be $17,762 and $20,552, respectively. This condition should show a marked improvement following the proposed unification as North-Eastern will receive approximately $15,000 in cash from Commonwealth.

Six protestants appeared at the hearing. B. C. Losey, Kingsley, Susquehanna county, testified that he is a poultry technician employed by Hall Brothers Hatchery, Wallingford, Connecticut. Mr. Losey has been a Commonwealth subscriber for fifteen years

and, apparently, handles a considerable amount of his business by telephone. Mr. Losey sells chicks to Walter Wilmarth, Kingsley, likewise a protestant, and he testified that if the proposed unification is approved his business relations with Mr. Wilmarth will be adversely affected. It appears that Mr. Wilmarth now subscribes to the services of each applicant and that prior to the establishment of Commonwealth service in Mr. Wilmarth's home, Mr. Losey found it extremely difficult to contact Mr. Wilmarth from Connecticut and other distant points by long-distance toll service. On these attempts the witness testified he was informed by the operator that she could not make connections with telephone stations of the North-Eastern system. Mr. Losey has never been a subscriber to North-Eastern service and he said that if North-Eastern can furnish the same grade of toll service as Commonwealth he will have no objection to the unification.

Walter Wilmarth is engaged in poultry farming and has both a Commonwealth and North-Eastern telephone in his home. In the event of unification, he will lose his Commonwealth service. Mr. Wilmarth opposes approval of the instant application and he advanced the following reasons:

1. His Commonwealth telephone number is nationally advertised.

2. He will experience difficulty in contacting the express agent at Kingsley by telephone.

3. He feels that North-Eastern neither has nor can secure facilities to provide adequate toll service.

Mr. Wilmarth stated that the express agent at Kingsley also has the service of each company, and that, after unification, the agent will have Commonwealth service, while Wilmarth will have North-Eastern service on a line to which 13 stations are presently connected. The witness indicated that it is impossible to secure adequate service on a line to which 13 stations are connected.

On cross-examination, Wilmarth admitted he subscribes for service under a residential rather than a business classification and that he never made a formal complaint to either company regarding service inadequacies. With respect to the number of stations on the line, counsel for applicants asked the witness if he had not been given an opportunity to supersede his party line service with an individual line. His answers indicate that he was offered such service but that he refused "because the service is still inadequate."

G. W. B. Tiffany, a general merchant, testified that, after unification, most of his customers will have Commonwealth service whereas he will retain his present North-Eastern service. He said further that if the unification is approved it will cost him five cents to call his customers and that his customers will be obliged to pay the same charge to call him. He is opposed to the proposed unification because of the application of toll rates.

Another witness, Harvey Butler, Harford, does not object to the proposed unification. He does not have either service at the present time and testified " . . . my main interest in being here is to see that the service I get in the future when I do have a phone, should I be in the good graces of either company at any time, I want to see that the phone I have is properly

serviced. I expect to do marketing outside of Pennsylvania and want to be able to put in long-distance calls and receive them."

Herbert Ross, a farmer, auctioneer, and representative of the Grange League Federation, testified that he has both services and will lose his North-Eastern service if the unification is approved. He opposes the proposed change solely because he will have to pay a toll charge to call his customers and vice versa. He said that the application of toll charges will affect his sales of feed and that this business may go to a competitor stating, "I have a competitor right here in the court room." In response to a question by counsel for protestants, Mr. Ross named his competitor as "Richard Masters."

Richard Masters testified that he is now served by Commonwealth and North-Eastern and that if the proposed unification is consummated, service to him by the latter company will be discontinued. He is the "competitor" referred to by Mr. Ross and, like Mr. Ross, he fears that his feed business will suffer as his customers will be served by North-Eastern and it will be necessary for them to pay a toll charge to reach his Commonwealth telephone. He stated that Commonwealth does not have sufficient facilities between its Kingsley and Montrose Central offices to provide adequate service. However, he stated that unification of the two systems will not affect him if Commonwealth provides additional facilities to provide adequate service to and from Kingsley.

[1] The protests are readily understandable, but they cannot be permitted to stand in the way of present and future progress in the field of communication. Universal toll service will be available to all subscribers of Commonwealth and North-Eastern and its inception will eliminate the difficulty Mr. Losey has had in the past in reaching Mr. Wilmarth. Further, it will, for the first time permit approximately 500 persons to call all telephone users served by the Bell system and its connecting companies, and vice versa. The protests of Messrs. Wilmarth, Tiffany, and Masters are occasioned by the location of the proposed territorial boundary line separating the operating areas of North-Eastern and Commonwealth. We recognize that the location of the boundary line may place some hardship upon certain subscribers, but it is evident that a change in the proposed boundary would not solve the problem which confronts protestants. The property of Mr. Wilmarth, for example, is located in an area to be served by North-Eastern, whereas, he desires Commonwealth service. Conversely, the property of Mr. Masters will be served by Commonwealth, whereas, he desires North-Eastern service.

[2] There is nothing of record to indicate that the proposed boundary has been determined by applicants in a capricious or arbitrary manner. Any revision would create new boundary situations as there will always be subscribers on one side of a boundary who would prefer to be served from the other side.

[3] There is, of course, nothing new in the application of toll charges between local exchange areas. Rates for telephone service should be designed to provide service at a minimum cost to subscribers generally, and basic tele-

phone rate structures have been divided into two principal parts to achieve this purpose. Local service rates cover service within a particular local service area and toll rates on a message basis apply on calls from one local service area to another. This is not a rate proceeding and there is nothing to prevent protestants from attacking separately the reasonableness of any part of applicant's rate structures.

[4, 5] Applicants contend that the proposed unification is necessary and proper for the service, accommodation, and convenience of the public for the reason that it eliminates unnecessary and uneconomical duplication of facilities and that it will provide a unified and universal service to the public in the affected area.

We find it to be in the public interest to discourage wasteful duplication of telephone facilities. Each telephone utility should render service without the threat of invasion of territory and ruinous competition from some other telephone utility. The instant proceeding is a progressive step in that direction.

The matters and things involved having been duly presented and heard, and full consideration having been given thereto, we find and determine that approval (1) of the sale, transfer, and exchange of certain facilities, from each applicant to the other, and (2) the attendant discontinuance of service by each company in the territory affected by the sale, transfer, and exchange of facilities, is necessary or proper for the service, accommodation, and convenience of the public, and that a certificate of public convenience should issue evidencing our approval of the matter; therefore,

It is *ordered:*

1. That the instant application be and is hereby approved.

2. That a certificate of public convenience issue in evidence of such approval, subject to the following conditions:

(a) That jurisdiction be and is hereby reserved by the Commission in the matter of the accounting entries to be made by Commonwealth Telephone Company and North-Eastern Pennsylvania Telephone Company in connection with the acquisition and unification; and that, within thirty days from the consummation of said acquisition and unification, Commonwealth Telephone Company and North-Eastern Pennsylvania Telephone Company submit to us copies of the accounting entries which each proposes to make.

(b) That the approval hereby given is not to be understood as requiring the Commission, in any proceedings brought before it for any purpose, to fix a valuation on said property equal to the consideration to be paid therefor, or as requiring the Commission to prescribe rates for service sufficient to earn a return on said consideration.

FEDERAL POWER COMMISSION

Re Tennessee Gas & Transmission Company

May 13, 1947

CONSIDERATION *of tentative rate schedule filed by pipe-line company covering sale of natural gas; schedule approved as amended.*

Rates, § 302 — Tax and price adjustment clauses.

Tax and price adjustment clauses providing that the purchaser of gas shall reimburse a pipe-line company in an amount equal to future sales taxes and that either party may apply to the Federal Power Commission or other body having jurisdiction for an increase or decrease in the price of gas, dependent on a variation in the Federal Bureau of Labor's Statistical Index of Wholesale Prices of All Commodities, are irrelevant and unnecessary in the rate schedule and are contrary to the terms of an order specifying a certain maximum rate.

By the COMMISSION: It appearing to the Commission that:

(a) By order dated December 2, 1946, in Re Tennessee Gas & Transmission Co. ("Tennessee"), Docket No. G–824, the Commission issued a temporary certificate of public convenience and necessity to Tennessee authorizing said company to lease and operate the "Big Inch" and "Little Big Inch" pipe lines, and construct the facilities necessary to interconnect its system with such pipe lines, for the transportation and sale of natural gas in interstate commerce.

(b) The issuance of such certificate and exercise of the rights granted thereunder, were upon the following condition, inter alia, contained in paragraph (B) of the order of December 2, 1946: "Applicant [Tennessee] shall deliver natural gas transported through the facilities described above [the pipe lines and other facilities hereinbefore referred to] at the points, to the persons, and in such volumes as may from time to time be prescribed by this Commission at a rate not to exceed 23 cents per thousand cubic feet at a pressure base of 15.025 absolute."

(c) On March 31, 1947, Tennessee tendered for filing an agreement with the Louisville Gas and Electric Company for the sale and delivery of natural gas made available from the "Big Inch" and "Little Big Inch" pipe lines in quantities and for the period of time therein specified. The contract has been tentatively designated Rate Schedule F. P. C. No. 23, and is to be effective as of January 1, 1947.

(d) The tentative rate schedule provides that purchaser shall pay to Tennessee 23 cents per thousand cubic

feet, at a pressure base of 15.025 pounds per square inch, for all natural gas delivered under such contract; that the purchaser shall reimburse Tennessee in an amount equal to any future sales tax levied by the United States or the states specified in such contract or any political subdivisions thereof, on or in respect of, sales of natural gas under such contract, if and to the extent any such sales tax shall be actually paid by Tennessee; and that the purchaser shall pay Tennessee three-fourths of the amount, if any, of certain additional taxes, specifically defined in said contract, which Tennessee may be required to pay on or in respect of sales of natural gas under the contract. The specific provisions setting forth such tax adjustments are contained in Art 3, subparagraphs 2 and 3 of the contract; and the definitions and billing arrangements relating thereto are contained in paragraph 9 of § 1 and in paragraph 3 of § 5 of the "Definitions, General and Operating Terms and Conditions" attached to and made a part of the contract.

(e) The tentative rate schedule further provides that Tennessee or the purchaser may respectively apply to the Federal Power Commission or any other body or court having jurisdiction for an increase or decrease in the price of gas in the event that the Federal Bureau of Labor's Statistical Index of Wholesale Prices of All Commodities varies by certain specified amounts from a specified base level. Such provision, entitled "Price Adjustment," is contained in § 16 of the "Definitions, General and Operating Terms and Conditions."

The Commission finds that: The Tax and Price Adjustment clauses contained in the tentative rate schedule, as identified in paragraphs (d) and (e) above, are irrelevant and unnecessary in the rate schedule filed with this Commission providing for the transportation and sale of natural gas in interstate commerce; and are contrary to and violate the terms and conditions of the Commission's order of December 2, 1946, in that they provide for a possible rate in excess of 23 cents per thousand cubic feet.

The Commission *orders* that: (A) The provisions specified in paragraphs (d) and (e) above relating to tax and price adjustments be and they are hereby stricken from said tentative rate schedules and shall be of no force and effect.

(B) Tennessee Gas and Transmission Company's tentative rate schedule, as amended by paragraph (A) of this order, be and it hereby is allowed to take effect as of the date requested.

(C) Nothing in this order shall be construed as denying to either purchaser or Tennessee the right of applying to this Commission for any increase or decrease in the price of gas established in this schedule for any reason whatsoever or at any time in accordance with the Commission's regulations under the Natural Gas Act.

NEW YORK PUBLIC SERVICE COMMISSION

Re Central New York Power Corporation

Cases 12323, 12845
May 14, 1947

PETITION *for authority to supply straight natural gas in portion of franchise territory; granted subject to conditions.*

Service, § 332 — Gas — Change to straight natural.

Authority was granted for a change-over by a gas company to supply straight natural gas, or a mixture of natural gas and carburetted water gas of 1,000 BTU or more, upon a showing that an increase in demand for gas had taxed the capacity of the company to serve its residential and commercial customers and that a change to straight natural gas of higher BTU content would increase the capacity of distribution mains by 20 per cent.

Service, § 146 — Curtailment — Industrial gas customers — Shortage of supply.

Discussion of curtailment of gas service under contracts with industrial consumers when necessary to maintain service to domestic consumers, p. 58.

APPEARANCES: Philip Halpern, Counsel, by Laurence J. Olmsted, Assistant Counsel, for the Public Service Commission; LeBoeuf & Lamb, by Lauman Martin and James O'Malley, Jr., New York city, Attorneys, for New York Central Power Corporation; Lyle Hornbeck, Syracuse, Corporation Counsel, for the city of Syracuse, by Dwight C. Dale, Assistant Corporation Counsel; Bond, Schoeneck & King, by George Bond, Jr., Syracuse, Attorneys, for Onondaga Pottery Company, Pass & Seymour, Inc., Haberle Congress Brewing Company, Syracuse Chilled Plow Company, Inc.; Mackenzie, Smith & Michell, by William L. Broad, Syracuse, Attorneys, for Crucible Steel Company of America and New Process Gear Corporation; Francis L. McElroy and Gordon H. Mahley, Syracuse, Attorneys, for Syracuse Coal Exchange, Inc., and others; Tom J. McGrath, Washington, D. C., of Counsel for Syracuse Coal Exchange, Inc.; W. Chase Young, Syracuse, for Syracuse Suburban Gas Company.

BREWSTER, Commissioner: An order was adopted on January 24, 1947, which authorized the Central New York Power Corporation to supply straight natural gas in the portion of its franchise territory described in the amended petition dated November 29, 1946, as the Syracuse-Oswego Division.

The testimony and exhibits which led to this order are discussed in my memorandum dated January 17, 1947. The facts therein set forth will not be restated herein.

Subsequent to the adoption of the

order, six of the company's twelve industrial consumers petitioned for a rehearing. New Process Gas Corporation, one of the petitioners, subsequently withdrew. These consumers are presently served with straight natural gas. For reasons set forth in my memorandum, dated February 11, 1947, I recommended that a rehearing be granted and an order was adopted on February 18, 1947, providing for a rehearing at Syracuse on February 25, 1947. On that date and during three days in March about four hundred pages of testimony were taken and fifteen exhibits were received.

I stated at S. M. 312 that the question to be considered on the rehearing was whether the Commission should continue its approval of the change-over to straight natural gas.

The Central New York Power Corporation, hereinafter referred to as the Power Corporation, purchases its supply of natural gas from the New York State Natural Gas Corporation under a contract which runs to November, 1964, by the terms of which the supplying company agrees to deliver to the Power Corporation all the natural gas necessary to meet the requirements of its residential and commercial customers. The contract further provides that service of straight natural gas to the twelve large industrial customers can be curtailed at any time the supplying company deems necessary.

Central New York produced testimony as to the advisability of straight natural gas operation through two witnesses, John T. Kimball, vice president and director of the Central New York Power Corporation, and Edward M. Borger, president of the New York State Natural Gas Corporation.

Mr. Kimball, who had previously testified, stated that he had given further consideration to the problems incident to conversion to straight natural gas operation and that authorization for the change-over was most desirable under prevailing conditions.

Mr. Kimball testified that it was his firm opinion that the safety and adequacy of supply for domestic and commercial customers in the Syracuse-Oswego Division would be better under conversion to straight natural gas than is the present situation. Present distribution difficulties arise from the great increase in the number of house-heating customers. The number of house-heating customers increased from 3,300 at December 31, 1945, to 8,700 at January 31, 1947. The principal reasons for change-over to straight natural gas set forth by Mr. Kimball follow:

1. The increase in the heating value of the mixed gas from 875 BTU to 950 BTU which is now in effect resulted in an increase of 8.6 per cent in the capacity of the mixed gas transmission and distribution lines of the company in the Syracuse-Oswego Division. Authorization to change to straight natural gas will result in an additional increase in distribution line capacity of 11.4 per cent or a total increase of 20 per cent over operation with 875 BTU gas.

2. The transmission line from Therm City to the eastern edge of Syracuse, which the company proposes to build if permitted to change over to straight natural gas operation, will provide an additional source of supply to the Syracuse distribution system

and will enable delivery of more gas on peak days than is possible with the present connection whereby all mixed gas for the city distribution system originates at the Hiawatha plant. The two sources of supply to the Syracuse distribution system will enable maintenance of the necessary distribution pressure which may not be possible without change-over to natural gas. The proposed line will obviate the construction of mixed gas transmission lines within the city in the near future. Although no firm bids had been received for the necessary pipe the witness was of the opinion that it would be secured in time for installation before next winter. The cost of the line is estimated to be either $550,000 or $750,000. The latter estimate contemplates constructing a line of sufficient size so that gas may be ultimately supplied to Utica.

3. Existing storage facilities will be more effective under straight natural gas operation than at present. There is a 1,300,000-cubic foot holder at Oswego and a 5,000,000-cubic foot holder at Fulton street, Syracuse, in which mixed gas is presently stored. There is also a 6,000,000-cubic foot holder at the Hiawatha plant which is used to store low BTU manufactured gas prior to mixing with natural gas. The storage of natural gas in these holders would provide a substantial addition to the therms immediately available in case of emergency. In the instance of the Hiawatha holder it amounts to an addition of substantially 60,000 therms as the low BTU gas now stored at this holder is not directly usable in the distribution system.

4. Operation with straight natural gas would permit more effective use of manufacturing facilities on peak loads. Portions of the coal gas plant are from nine to twenty years old. The capacity of the coal gas manufacturing plant which produces 520 and 570 BTU gas has declined from about 19,500 to 15,000 therms a day since April, 1946. To rehabilitate the older portion which is in need of repair would cost substantially more than $450,000. If authorized to distribute straight natural gas the company proposes to abandon the coal gas plant.

The water gas plant was constructed in 1941 or 1942 at a cost of approximately $1,250,000. This plant has never been operated at its full capacity. Under mixed gas operation the water gas plant is operated at a low capacity, 25,000 therms per day to produce a low BTU gas so that when mixed with 1,050 BTU natural gas the resultant mixed gas has a heating value of 875 or 950 BTU. As regularly operated at present the water gas cannot be introduced directly into the distribution system as the output is necessary to dilute the high BTU natural gas. In an emergency, high BTU water gas can be delivered to Fulton and Oswego or the Fulton street holder. The witness expressed doubt as to the ability of appliances in Fulton and Oswego to use this gas without adjustment. The water gas plant can produce 60,000 therms per day of 1,000 BTU gas which could be introduced directly into the distribution system under straight natural gas operation. The loss of 13,000 to 14,000 therms per day of coal gas as a result of abandoning the coal gas plant would be more than made up by the proposed operation of the water gas plant.

In the event of failure of natural gas supply, the 110,000 therms of natural gas stored in the holders and the 60,000 therms of production from the water gas set would enable the company to serve its customers for as long as a couple of days whereas under mixed gas operation about all that is available is the 50,000 therms of gas in the Fulton street holder. It is the intention of the company to use the water gas set to meet peaks and probably during the winter season of next winter.

5. Mr. Kimball was unable to give an approximation of increased requirements for natural gas as a result of change-over to straight natural gas. He stated that practically no increase would result on peak load as the water gas set would be used at such times but there might be some increase over the period of a year. The change in natural gas requirement would depend on the extent that the water gas set was utilized which in turn would depend on the availability of natural gas during the winter season. The witness stated that had straight natural gas been distributed instead of 875 BTU gas in the period May 1, 1946, to November 30, 1946, 17 per cent more natural gas would have been used. Mr. Kimball submitted an estimate which showed that 950 BTU gas could have been produced in the same period by a mixture composed of 8 per cent coal gas, 1 per cent water gas, and 91 per cent natural gas. It appears that the requirements of the mixed gas customers during this period could have been supplied with straight natural gas by purchasing 9 per cent more natural gas than would have been necessary for 950 BTU operation.

Mr. Kimball submitted Exhibit 12 which set forth the consumption in therms, present revenue, and proposed revenue of the twelve natural gas customers and forty of the larger mixed gas customers. The company proposes to serve all of these customers on the basis of the same rules and tariffs. The proposed applicable service classification defines an industrial consumer as one normally using gas at the rate of 120,000 therms or more per year for industrial purposes. The proposed service classification reserves to the company the right to curtail or suspend service to industrial consumers in cases of temporary shortage of natural gas or at any time when its facilities are required for service to other consumers.

The effect of the proposed service classification is to make nine of the mixed gas customers subject to curtailment upon change-over to straight natural gas operation. The contract in effect between Central New York Power Corporation and New York State Natural Gas Company contains provisions for the elimination of industrial customers on certain contingencies. For the purpose of applying this provision, the contracting companies have agreed that an industrial customer shall be defined as one using 120,000 therms per year for industrial use. The nine mixed gas customers subject to the curtailment provision if the change-over to straight natural gas is permitted have been individually advised of the proposed change.

Mr. Borger testified that he was president of the New York State Nat-

ural Gas Corporation and a director of the parent company, Consolidated Natural Gas Company.

New York State Natural Gas Corporation is owned 100 per cent by Consolidated Natural Gas Company. The latter also owns the River Gas Company of Marietta, Ohio, East Ohio Gas Company, Peoples Natural Gas Company (Penna.), and Hope Natural Gas Company (W. Va.)

New York State Natural Gas Corporation produces and purchases small quantities of natural gas in northern Pennsylvania and southern New York. It purchases most of its requirements from its affiliate, Hope Natural Gas Company. Hope Natural Gas Company produces and purchases some gas in West Virginia and purchases gas from the Tennessee Gas and Transmission Company which operates a transmission line extending from Texas to southern West Virginia. Hope Natural Gas Company is under contract to supply New York State Natural Gas Corporation with a maximum of 24,500,000 thousand cubic feet for the year 1947. Gas received from Hope Natural Gas Company is delivered at the Pennsylvania-West Virginia state line. A portion of 1947 purchase will be delivered through the Big Inch Line.

New York State Natural Gas Corporation has a 12-inch, high-pressure line which extends from the West Virginia-Pennsylvania state line to Potter county, Pennsylvania, where it connects with a system of lines one of which extends to Syracuse. A storage pool in Tioga county, Pennsylvania, is connected to the system. An application is before the Federal Power Commission for authority to loop portions of the main transmission line which will increase its daily capacity from 65,000 thousand cubic feet to 90,000 thousand cubic feet and to install additional compressors at the storage pool which will increase the pressure in the pool from 500 pounds to 850 pounds. At this latter pressure the capacity of the pool is 8,500,000 thousand cubic feet.

Mr. Borger stated that the gas shortage in the Appalachian area was of temporary nature and was caused by lack of pipe to construct additional transmission facilities both from producing fields in West Virginia and from points in Texas where there are large volumes of gas available for purchase. The witness was certain that his company could meet their contractual commitments with the Central New York Power Corporation under the January, 1945, contract as amended, even if the proposed construction was not in operation.

The witness testified that he expected that curtailments of industrial use of gas during the winter of 1947–1948 would be as bad or worse than during the winter of 1946–1947. He stated that other companies in the Consolidated system, the Peoples Natural Gas Company and the East Ohio Gas Company, curtailed the use of industrial gas on a basis similar to that imposed by New York State Natural Gas Corporation on the territory of Central New York Power Corporation served with natural gas.

Mr. Borger stated that he would not agree to a modification of the existing contract to provide that New York State Natural Gas Corporation would furnish natural gas for industrial consumers on a noncurtailable basis up to

the extent that natural gas would be made available as a result of the Power Corporation returning to a heating value of 875 BTU or remaining at 950 BTU. He stated that such a saving was not a saving which could be reflected directly on a peak day to the extent that he could be sure that it would not be necessary to curtail industrial customers over the entire system to take care of domestic customers over the entire system.

Mr. Borger presented Exhibit 13 which sets forth the natural gas requirements and supply of New York State Natural Gas Corporation for the years 1945–1947 and peak days 1946–1947 and 1947–1948. Sales and supply for 1947 and peaks for 1947–1948 were estimates based on information secured from customers.

Exhibit 13 lists fifteen customers of New York State Natural Gas Corporation for the years 1946 and 1947. All contracts for sale of gas run to November 1, 1964, which is coincident with the terminal date of the contract between New York State Natural Gas Company and Hope Natural Gas Company and of the contract between the latter company and Tennessee Gas and Transmission Company. Total requirements for 1946 were 17,818,293 thousand cubic feet. The estimated requirements for 1947 are 27, 170,922 thousand cubic feet. However, according to Exhibit 13 the company will have a deficiency in supply of 376,839 thousand cubic feet, and will reduce the deliveries in 1947 by this amount.

Exhibit 13 shows the peak day for 1946–1947 as 100,855 thousand cubic feet and the estimated peak for 1947–1948 as 116,749 thousand cubic feet. The portions of the peaks attributed to the Power Corporation are 27,514 thousand cubic feet in 1946–1947, and 32,000 thousand cubic feet in 1947–1948. The latter figure reflects the assumption of limited addition of house-heating customers and availability of 60,000 therms of high BTU gas from the water gas plant.

In response to a question as to the desirability of changing over to straight natural gas immediately rather than at a later date, the witness stated that he did not see why the change-over should not be made immediately as the additional volume of gas would be relatively small in comparison with the total requirement of New York State Natural Gas Corporation or the total reserves in the United States.

Mr. Leon E. Hall testified for the Syracuse Chilled Plow Company, Inc. The witness is employed as factory superintendent. The company has used straight natural gas since 1936 and has been subject to a curtailable contract since 1942. The company uses about 30,000 therms per month and has no standby equipment available. Curtailment has not interfered seriously with production until the present time. He was advised during February, 1947, by a representative of Central New York Power Corporation that the company should provide standby equipment, as curtailment next winter would probably be greater than this winter. If heat-treating operations are moved to another company plant it would necessitate the discharge of twenty-five to thirty employees. During February and March, 1947, production was reduced and thirteen

employees laid off. The payroll loss amounted to about $600 per week.

Crucible Steel Company of America produced four witnesses. Mr. Kenneth W. Mace, combustion engineer, at the Halcomb plant testified that various types of fine steels were produced at the plant which required heat treatment in the processing. The company uses natural gas purchased from Central New York Power Corporation, producer gas manufactured at the Halcomb plant, coal and electric power for heat treating. The company purchased 7,100,000 therms of natural gas in 1945 and 7,558,000 therms in 1946. The purchases represent about 56 per cent of the total gaseous fuel used. The maximum monthly purchase did not exceed 800,000 therms. Nine additional gas producers would be required to replace the purchased natural gas with producer gas. The first four machines could be obtained in approximately eight months time and one machine per month thereafter or a total delivery time of thirteen months. Delivery difficulties with accessories might increase the period required to change the plant over to producer gas operation to eighteen months. The estimated cost of the work is $570,000.

R. Schempff, assistant manager of the Halcomb plant, testified that the company preferred to purchase natural gas rather than to change over to producer gas. If the change-over was made the company would discontinue purchases of natural gas. The company would prefer to have the proposed change-over of domestic and commercial customers of Central New York Power Corporation delayed so as to allow sufficient time to equip the Halcomb plant to fully take care of demands within the plant. The Halcomb plant has purchased natural gas since 1934. The contract with Central New York Power Corporation has been on an interruptible basis since 1940 but experienced no interruption until the winter of 1946–1947. Crucible Steel Company of America has two other plants in the Syracuse area, the Emerson Works which is being discontinued and the Sanderson Works which is a processing plant. Mr. Schempff offered Exhibit 23, a letter dated September 26, 1945, to W. K. Lowe, chief engineer, of Crucible Steel Company of America from Ralph L. Manier of the Power Corporation which advised Crucible that the New York State Natural Gas Corporation had consented to the sale of a maximum of 1,631,500 therms. The limit had been increased previously from 800,000 therms to 1,000,000 therms. Under cross-examination Mr. Schempff admitted that he understood that the gas service obtained by his company throughout the period during which gas was taken had been on an interruptible basis.

William J. Lyons, chief cost accountant of the Syracuse district of Crucible Steel Company of America offered Exhibit 22. The exhibit shows man-hours, wages, and revenue losses due to gas curtailment. The man-hours lost on account of curtailment were secured by the witness from persons in charge of production. He ascertained the average hourly wage of the employees who have been laid off from company records and therewith computed the total wages lost. According to the company's records, 180,000 direct labor man-hours are required to produce 2,500 tons of steel.

This amounts to a production of .01388 tons per direct labor man-hours. On this basis the total hours lost, 37,232, is equivalent to a loss of 515.44 finished tons which multiplied by the average selling price of all types of steel produced by the Halcomb plant, $600, amounts to a loss in revenue of $309,264 in the period February 5th to March 6th.

William G. Slack, assistant to the manager of the Halcomb plant, testified that he did not believe that the Halcomb plant could be converted so as to receive and use mixed gas by next winter.

The Syracuse Coal Exchange, Inc., recalled Mr. Patton who testified as to the average daily temperature in the city of Syracuse as shown by records of the United States Department of Commerce Weather Bureau. He stated that, according to the reports issued by that bureau, the winter of 1946–1947 was a warmer winter than normal.

Counsel for the Syracuse Coal Exchange, Inc., cross-examined the witnesses produced by Central New York Power Corporation. During the course of this cross-examination, counsel for the Syracuse Coal Exchange, Inc., introduced as exhibits various documents relating to matters before the Federal Power Commission and a graph purporting to show increased requirements for southwestern natural gas for the Appalachian area.

Discussion

Is the change-over from mixed gas to straight natural gas in the public interest?

The record shows that there has been such an increase in the demand for gas in the Syracuse-Oswego area of the Power Corporation that the capacity of the company to serve its residential and commercial customers is seriously threatened. Distribution mains of the company are taxed to their full capacity and the management of the company is seriously concerned as to its ability to maintain pressure in some portions of the territory affected. Mr. Kimball testified that by the change to straight natural gas of higher BTU the capacity of the distribution mains to serve the customers on these lines would be increased by 20 per cent over the capacity of these mains to deliver their customers requirements with 875 BTU gas. If approval is given to change to straight natural gas the company would construct a new transmission main from Therm City to east of the Syracuse city line and place this gas in the distribution mains in the eastern section, thereby relieving the mains extending from Hiawatha boulevard.

The record shows that with straight natural gas the company would have full use of its gas holders for storage purposes and could supplement the supply of natural gas by 60,000 therms per day of water gas of 1,000 BTU, and that this would enable the company to carry on service to its residential and commercial consumers for a period of two days, in event of a shortage of natural gas.

Mr. John T. Kimball, a vice president of the Power Corporation, who must be considered as a responsible witness, testified that if the change to straight natural gas is approved, the company would, he believed, be able to meet all of the requirements of the

present residential and commercial customers including space-heating consumers, but that if approval is not granted and the company is required to serve 875 BTU or 950 BTU he had doubt as to the ability of the company to maintain pressures and meet customer requirements.

It is unfortunate and greatly to be regretted that the use of straight natural gas by the twelve large industrial customers was curtailed during the early months of this year with the resulting loss in production, and the necessity of laying off employees.

Such curtailment should not be required by the supplying company except as a necessary measure to maintain service to domestic consumers in the state of New York. However, the contracts of these industrial consumers under which they purchase gas contain specific provision permitting such curtailment. It appears from the record that curtailment in the amount of gas taken by these industrial customers may be as severe and possibly more so in the early months of 1948. Mr. Borger stated in the record that he would not agree to a modification of the existing contract to provide that New York State Natural Gas Corporation would furnish natural gas for industrial consumers on a noncurtailment basis up to the extent that natural gas would be made available as a result of the Power Corporation returning to a heating value of 875 BTU. He stated that such a saving was not a saving which could be reflected directly on a peak day to the extent he could be sure that it would not be necessary to curtail industrial customers over the entire system to take care of domestic customers over the entire system. Attorneys for the Crucible Steel Company of America, in their brief, request the Commission to take all steps within its power and jurisdiction to compel the New York State Natural Gas Corporation to amend its contract in this respect.

I doubt if these industrial customers question that sound public policy obligates the Commission, the New York State Natural Gas Corporation, and the Power Corporation to first provide sufficient gas for domestic use before providing gas for industrial use. That policy does not relieve the supplying company from doing all in its power to meet the requirements of industrial consumers but in event of a shortage in gas the needs of domestic consumers must come first.

As to the opposition presented by the Syracuse Coal Exchange. The great increase in the demand for residential house heating by gas has been caused more by the very substantial increase in the cost of coal and the fear of the public that strikes in the mines might prevent obtaining coal than by the BTU content of the gas supplied. The demand for space heating grew when the company was furnishing 875 BTU and has continued with 950 BTU. The company has not received final approval of the change to straight natural gas but it has filed with the Commission as a part of the general information provisions of its gas schedules, a provision restricting the taking on of new space-heating consumers after March 24, 1947, and continuing to May 1, 1948. The change to straight natural gas in place of mixed gas will not add materially

to the injury already suffered by the coal industry.

The recommendation herein made would not be submitted if it would result in the use of more natural gas during peak periods than required for mixed gas of 875 or 950 BTU per cubic foot. The testimony shows that the change recommended would result in the actual use of less natural gas in peak periods as appears from the following computation.

For the first eleven months of 1946, the total gas send-out of 30,864,919 therms of 875 BTU gas was made up of 25,442,356 therms or 82.5 per cent of natural gas and 5,422,563 therms or 17.5 per cent of manufactured gas. Based on this ratio, the natural gas requirements to meet the maximum 1947–1948 day requirement of 382,000 therms, as estimated by Mr. Kimball, would require 82.5 per cent or 315,150 therms of natural gas. With a mixture of natural gas and 1,000 BTU carburetted water gas, and assuming that the maximum daily requirement of 382,000 therms would occur on three consecutive days, the daily peak could be carried by the use of 298,300 therms of natural gas, the balance of 83,700 therms being made up as follows:

Carburetted water gas, 1000 BTU	60,000 therms
One-third of storage capacity of Hiawatha Blvd. holder, 1000 BTU gas	20,000 therms
One-third of additional storage in holders at Fulton St. and Oswego, 1050 BTU gas instead of 875 BTU	3,700 therms
	83,700 therms

Conclusion and Recommendation

I recommend that the order granted January 24, 1947, which authorizes Central New York Power Corporation to supply straight natural gas in those portions of its franchise territory specified in the petition (Syracuse-Oswego division) be amended to authorize the company to supply straight natural gas, or a mixture of natural gas and carburetted water gas of 1,000 BTU, or more, in the Syracuse-Oswego division of the company. The order of approval to contain the provision that such approval is granted upon the express condition that when required by this Commission to do so, the Central New York Power Corporation shall start full capacity operation of its water gas plant located at Syracuse for the production of gas having a BTU content of not less than 1,000 BTU per cubic foot and to use the same together with natural gas for distribution to its consumers.

The deficiency in the supply of natural gas to communities in the state of New York which existed in the past winter and which it appears will take place next winter has received the thorough investigation and consideration of this Commission. The report of Mr. Willard F. Hine, consulting engineer, and Mr. Ralph H. Nexsen, chief power engineer, dated May 14, 1947, relative to the change to natural gas in the Syracuse-Oswego area as herein discussed, indicates that the program here proposed to distribute gas of 1,000 BTU or more and to operate the water gas plant at Syracuse for the production of 1,000 BTU gas at all times required, will result in conserving natural gas when needed in other communities and aid in reducing the deficiency in natural gas in other areas.

The order so conditioned will be a great help in maintaining pressures

and rendering proper gas service to the consumers of Central New York Power Corporation, which might not be possible otherwise, and do so without impairment of the ability of the New York State Natural Gas Corporation to supply natural gas to other communities in New York state.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re Triple Cities Airways, T.C.A., Incorporated

Application Docket No. 67526, Folders 2, 3, 4 and 5
May 27, 1947

APPLICATION *of airline company for authority to operate as a common carrier; limited approval granted.*

Certificates of convenience and necessity, § 101.2 — Air carrier — Authority limited to proven need.

Approval of an air carrier's application to render an extensive scheduled service will not be granted where approval would require the issuance of an order going far beyond the territorial limits of the proofs.

By the COMMISSION: These matters come before us upon applications of Triple Cities Airways, T.C.A., Inc., a proposed corporation, for our approval of the beginning of the right and privilege of operating aircraft as a common carrier, under Folder 2 for the transportation of persons in charter service between any airports; under Folder 3 for the transportation of property in charter service between any airports; under Folder 4 for the transportation of persons on scheduled service over specified routes; and under Folder 5 for the transportation of property on scheduled service over specified routes.

The applicant is concurrently at A. 67526, Folder 1, seeking approval of its incorporation, organization, and creation.

At the public hearing in the instant proceedings, a witness for the applicant, a member of the proposed corporation, testified that he is the principal stockholder of the present Chemung Valley Flying Service, Inc., the latter owner of an airport in Athens township, Bradford county, licensed No. 192 Commercial (the proposed base of operations in the instant proceedings), where students are instructed, aircraft are sold and repaired, and landing facilities and refueling service provided for others. The witness further testified that he is a licensed pilot and has transported persons and property in interstate commerce for the past three

years, and further concerning the demand and need for the proposed service.

The witness further testified that the said present flying service possesses, and proposes initially to use, the following planes in providing the proposed service:

Name	Year Model	Number	Capacity
Aeronca	1946	1	Two-place
Ercoupe	1946	1	Two-place
Stearman	1943	1	Two-place
Cessna	1943	1	Four-place
Cessna	1944	1	Five-place
Piper Cub	1946	1	Two-place

The witness further testified that the planes in the above tabulation are presently in use; that other planes are on order, and that it is proposed to transfer the titles of this equipment to the applicant upon our approval of its concurrent application at Folder 1 for incorporation, organization, and creation. The witness stated that the applicant has complied with all the requirements of the Civil Aeronautics Board and Pennsylvania Aeronautics Commission which have issued to it the proper certificates, and that the applicant is prepared to begin service immediately upon our approval of the instant applications.

Five witnesses for the applicant, representing various enterprises, testified concerning the need for and in favor of the proposed service. The witnesses have used the applicant's charter service for interstate transportation, and testified to the effect that service as contemplated by the pending intrastate applications would be an accommodation and convenience to them personally, or to the business concerns which they represent.

While this testimony amply supports the applications which involve charter service, we are not of the opinion that the applicant has established that a need exists for his proposed scheduled passenger and freight services. These applications contemplate service between (1) Pittsburgh and Sayre via State College, Lock Haven, Williamsport, and Towanda; (2) Sayre and Philadelphia via Towanda, Tunkhannock, Wilkes-Barre, and Allentown; and (3) Philadelphia and Pittsburgh via Lancaster, Harrisburg, and Altoona, with the right to provide service between intermediate points on the above routes.

All of the applicant's witnesses reside in the Athens-Sayre area and their testimony was limited to the service requirements of that area. This testimony was not of such rational probative force as to justify a grant of such broad rights as are here involved. In this regard the Pennsylvania superior court in Leaman Transp. Corp. v. Public Utility Commission (1943) 153 Pa Super Ct 303, 308, 52 PUR NS 414, 417, 33 A2d 721, said: "The desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force: Consolidated Edison Co. v. National Labor Relations Board (1938) 305 US 197, 83 L ed 126, 26 PUR NS 161, 59 S Ct 206, 217. We have held that the extent to which there shall be competition in transportation is largely a matter of policy committed to the Commission by the legislature. John Benkart & Sons Co. v. Public Utility Commission (1939) 137 Pa Super Ct 13, 31 PUR NS 451, 7 A2d 588. But neither policy, nor discretion resting in the Commission can justify an order without substantial evidence in support of

it, establishing not only demands for additional service but a need extending throughout the area to which the order applies."

Approval of the extensive scheduled service rights which are here sought would require issuance of an order going far beyond the territorial limits of the proofs and therefore will not be granted. Kulp v. Public Utility Commission (1943) 153 Pa Super Ct 379, 52 PUR NS 419, 33 A2d 724.

After full consideration of the matters and things involved, we find and determine that approval of the applications at A. 67526, Folders 2 and 3, are necessary or proper for the service, accommodation, convenience, or safety of the public, and that approval of the applications at A. 67526, Folders 4 and 5 should be denied.

WISCONSIN PUBLIC SERVICE COMMISSION

John A. Cienian

v.

City of Milwaukee

2-U-2329
May 29, 1947

COMPLAINT *by customer against proposed service discontinuance by municipally owned water utility; continuance of service ordered.*

Service, § 223 — Contract for water service — Provision as to discontinuance — Validity — Public policy.

1. A provision in a service contract between a municipal water utility and a consumer to the effect that either party might cancel the contract on ninety days' written notice is contrary to public policy and without force or validity, p. 63.

Service, § 261 — Discontinuance — Municipal water utility — Residence outside city.

2. The fact that the residence of a customer of a municipally owned water utility is beyond city limits and that he has opposed annexation of his property to city territory does not justify the city's discontinuance of water service even under a provision in the service contract permitting discontinuance on notice, p. 64.

Service, § 121 — Obligation to serve — Validity of time limitation.

Statement that a public utility may, under certain circumstances, undertake to furnish service to a particular customer for a limited and definitely stated period and be under no obligation to furnish service for a longer period, p. 64.

By the COMMISSION: This proceeding was instituted upon complaint of John A. Cienian, 3553 South Eleventh street, Milwaukee 7th, that the city of Milwaukee, as a public water utility, had notified him of its intention to discontinue the service of said utility then and previously furnished to him at the premises constituting his residence at the above address.

APPEARANCES: John A. Cienian, by C. R. Dineen, Attorney, Milwaukee, by Norman R. Klug; city of Milwaukee Water Works, by Walter J. Mattison, City Attorney, by Joseph L. Bednarek, Assistant City Attorney; W. H. Brown, Superintendent of water works (March 6th hearing only). Of the Commission staff: P. A. Reynolds, rates and research department, and W. H. Cartright, engineering department.

The premises here involved are situated on South Eleventh street in the town of Lake, Milwaukee county. The center of that street constitutes a boundary line of the city of Milwaukee, and a main of the city water utility is in the street upon which the premises here involved abut. Just south of those premises is a cemetery which extends as far south as Howard avenue. And the city boundaries on both the east and west sides of the cemetery extend to the south beyond Howard avenue, which is about three-eighths of a mile south of complainant's house. It is clear from the record that the motivating purpose of the city in giving notice of discontinuance of the service here involved was to bring about the annexation of a small area in which complainant resides, and which lies between South Eleventh street on the east and the city limits on the west and between the cemetery on the south and the city limits on the north; such territory comprising less than an acre of ground. The city's utility service is presently furnished to two other consumers other than complainant in this area.

The service of the water utility of the city to the then occupant and owner of complainant's premises was instituted in July, 1932, and has continued to such owners or occupants or their successors ever since that date. At or prior to the institution of such service, the city and the then owner of the premises involved entered into a contract specifying the terms and conditions under which the city's water utility service would be furnished at those premises. That contract contained the following provision: "It is further mutually understood and agreed by and between the parties that either party to this contract may terminate this contract, discontinue the water service, and shut off the water at any time by giving ninety days' notice in writing to the other party of its intention so to do." It is pursuant to such provision of the contract that the city proposes to discontinue the service which it has been furnishing for over fourteen years.

[1] The issue in this proceeding is whether the city of Milwaukee has an obligation to continue its existing service to the complainant herein, notwithstanding the provision of the contract above quoted. The determination of that issue must depend upon whether such provision of the contract has any validity. If it is valid, the city is within its rights in giving notice of its purpose to discontinue the service. If the provision has no validity, such discon-

tinuance of service would be in violation of complainant's rights, regardless of the facts or reasons, as presented in evidence herein, which prompted the giving of the notice of discontinuance by the city.

The above-quoted provision of the contract is without force or validity. Any such provision in a contract between any city in its capacity as a public utility and its customers is contrary to public policy as being violative of the fundamental and statutory public obligation of the city as a public utility, to continue any public utility service once it is undertaken, unless the abandonment thereof is authorized by public authority. Milwaukee v. West Allis (1935) 217 Wis 614, 258 NW 851, 259 NW 724. See §§ 196.03 and 196.81, Statutes.

It is doubtless true that a public utility may, under certain circumstances, undertake to furnish its service to a particular customer for a limited and definitely stated period, and be under no obligation to furnish service for a longer period. But there must be some reason, collateral to the service itself, to justify any such limitation upon the undertaking and resulting obligation of service thus involved. Furthermore, such temporary service should be provided for in a properly filed rule of the rate schedules subject to Commission approval.

[2] The service here involved has been continuously furnished for more than fourteen years. No facts have been shown which justify its discontinuance or abandonment. The respondent offered to show that if the premises served and some adjacent area were annexed to the city, it would be in a position to do a good many things that it cannot now do, which the town of Lake does not or cannot do, and which would allegedly be of great benefit to many people. It is also claimed that as long as the city's water service is furnished to the complainant, he will be opposed to such annexation, and that, in consequence, the city is justified in enforcing the provision of the contract hereinbefore referred to.

Certainly such considerations afford no justification for discontinuance or abandonment of the service to the complainant, even on the theory advanced by the city, in the absence of any such provision in the contract, and consequently they cannot be said to validate that provision or remove it from the category of unenforceable contracts.

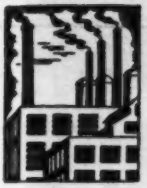
We conclude, therefore, that the proposed discontinuance of service to the complainant is without justification and should be prevented.

The Commission finds:

That the city of Milwaukee has an existing and continuing obligation to furnish its water utility service to the occupant of the premises known as 3553 South eleventh street, town of Lake, Milwaukee county, presently occupied by the complainant John A. Cienian; notwithstanding the provisions of a contract in evidence in this proceeding providing for the discontinuance of such service.

The Commission therefore concludes:

That the city of Milwaukee should be required to refrain from discontinuance of such service.



Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Detroit Edison Wins Award For Outstanding Film

IN announcing the winners of its Better Copy Contest, the Public Utilities Advertising Association recently named *"My Dad's Company,"* a sound motion picture produced for the Detroit Edison Company by The Jam Handy Organization, the outstanding entry in the film classification. This first award was presented recently at the association's annual convention in Detroit.

"My Dad's Company" is an institutional picture designed to describe the place of the electric utility in the community—its contributions, achievements, and responsibilities.

Hotpoint Introduces New Line Of Counter Cooking Appliances

A DRIVE to capture a substantial portion of the $100,000,000 market for commercial cooking counter appliances, while providing electric utility companies with an estimated additional $80,000,000 annual revenue, has been announced by Leonard C. Truesdell, vice president of marketing for Hotpoint, Inc., with the unveiling of a new matched line of counter cooking appliances for sandwich shops, drug stores, and other counter restaurants.

Consisting of five matched appliances that can be combined into any arrangement of counter cooking units through the use of a patented banking strip, the line will be actively promoted by advertising during the balance of 1947. Specification sheets, instruction booklet, sales manual, a full line broadside, folders on individual appliances, demonstration manual, and display units will be featured in broad sales promotional program.

Pittsburgh Imo Meter Reaches Volume Production

GEORGE H. GLEESON, manager of water meter sales for the Pittsburgh Equitable Meter Division, Rockwell Manufacturing Company, has announced that volume production has again been attained in the manufacture of the well-known line of Pittsburgh Imo meters.

Mr. Gleeson explained that Imo meter production was shelved during the war period due to the company's inability to secure the high grade materials needed for its construction.

The new Imo Type 2 meter now being made is said by company spokesmen to be even superior in performance to the Type 1 model produced before the war. Improvements cited include a larger measuring chamber to provide increased capacity and rotors of larger diameter to provide greater driving power at slower operating speeds.

Staud Elected President of Illum. Engineering Society

RUDOLF W. STAUD is the newly-elected president of the Illuminating Engineering Society. He will take office as the 43rd president upon the expiration of retiring President G. K. Hardacre's term on October 1, 1947.

President-elect Staud, an executive of the Benjamin Electric Mfg. Company, Des Plaines, Illinois, makers of lighting equipment, is a well-known figure in the lighting industry. For many years, he has been actively identified in industry-wide activities relating to the improvement of practices and the development of higher uniform standards for lighting equipment. He has served the RLM Standard Institute as its president since 1936. He is a director of the Chicago Lighting Institute, vice chairman of the 2nd International Lighting Exposition and Conference which is to be held next November 3rd-7th in Chicago, and a past president of the Porcelain Enamel Institute. He has also held numerous chairmanships and served on many committees in the National Electrical Manufacturers Association.

Has Large Expansion Program

MINNEAPOLIS GAS LIGHT COMPANY is in the process of converting its gas utility system to the distribution of 100 per cent natural gas instead of the present mixed gas. The total cost of conversion is estimated by the company to be approximately $800,000 of which $170,000 had been expended by May 31, 1947, leaving an estimated $630,000 to be expended during the last seven months of 1947. In addition, the company estimates that its construction program for 1947 will require the expenditure of approximately $2,150,000, of which $1,500,000 will be expended during the last seven months of this year.

A-C Bulletin

THE essential function of a hot process water conditioning system is explained and diagramed in a new 12-page bulletin released by Allis-Chalmers. Included is a description of the equipment and an explanation of what it is designed to do, together with the mechanism of its operation.

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• This Directory is reserved for engineers, accountants, rate experts, consultants, and others equipped to serve utilities in all matters relating to rate questions, appraisals, valuations, special reports, investigations, design, and construction. » » »

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